

# POLITICAL CODE.

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§ 1. **Title.** This act shall be known as the political code of the state of North Dakota, and is divided into chapters as follows:

## CHAPTER 1.

THE SOVEREIGNTY OF THE STATE AND THE POLITICAL RIGHTS AND DUTIES OF ALL PERSONS SUBJECT TO ITS JURISDICTION.

§ 2. **Territorial jurisdiction, limitations on.** The sovereignty and jurisdiction of this state extends to all places within its boundaries as established by the constitution, but the extent of such jurisdiction over places that have been or may be ceded to, purchased, or condemned by the United States, is qualified by the terms of such cession or the laws under which such purchase or condemnation has been or may be made.

§ 3. **Legislative consent to purchase of lands by United States. Jurisdiction over.** The legislative assembly consents to the purchase or condemnation by the United States of any tract within this state for the purpose of erecting forts, magazines, arsenals, dock yards and other needful buildings, upon the express condition that all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime may be served and executed thereon in the same manner and by the same officers, as if the purchase or condemnation had not been made.

§ 4. **Jurisdiction ceded.** Jurisdiction is hereby ceded to the United States over any tract of land that may hereafter be acquired by the United States on which to establish a military post; provided, that legal process, civil and criminal, of this state shall extend over such land acquired by the United States to establish a military post, in all cases in which exclusive jurisdiction is not vested in the United States, and in all cases of crimes not committed within the limits of such reservation. § 1, c. 81, 1895.

§ 5. **Rights over persons enumerated.** The state has the following rights over persons within its limits, to be exercised in the cases and in the manner provided by law:

1. To punish for crime;
2. To imprison or confine for the protection of the public peace or health, or of individual life or safety;
3. To imprison or confine for the purpose of enforcing civil remedies;

4. To establish custody and restraint for the persons of idiots, lunatics, drunkards and other persons of unsound mind;

5. To establish custody and restraint of paupers for the purposes of their maintenance;

6. To establish custody and restraint of minors unprovided for by natural guardians for the purposes of their education, reformation and maintenance;

7. To require services of persons, with or without compensation, in military duty, in jury duty, as witnesses, as township or village officers, in highway labor, in maintaining the public peace in enforcing the service of process, in protecting life and property from fire, pestilence, wreck or flood, and in such other cases as are provided by law.

**§ 6. Original and ultimate title.** The original and ultimate right to all property, real or personal, within the limits of this state is in the state.

**§ 7. Property escheats when.** All property, real and personal, within the limits of this state, which does not belong to any person or to the United States, belongs to the state. Whenever the title to any property fails for want of heirs or next of kin, it reverts to the state.

**§ 8. Acquisition by taxation and assessment.** The state may acquire property by taxation in the modes authorized by law.

**§ 9. By right of eminent domain.** It may acquire or authorize others to acquire title to property, real or personal, for public use in the cases and in the mode provided by law.

**§ 10. Who are the people.** The people, as a political body, consist:

1. Of citizens who are electors;
2. Of citizens not electors.

**§ 11. Who are citizens.** The citizens of the state are:

1. All persons born in this state and residing within it, except the children of transient aliens and of alien public ministers and consuls;
2. All persons born out of this state and who are citizens of the United States and residing within this state.

**§ 12. Residence, rules for determining.** Every person has in law a residence. In determining the place of residence the following rules are to be observed:

1. It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose;
2. There can be only one residence;
3. A residence cannot be lost until another is gained;
4. The residence of the father during his life, and after his death the residence of the mother, while she remains unmarried, is the residence of the unmarried minor children;
5. The residence of the husband is presumptively the residence of the wife;
6. The residence of an unmarried minor who has a parent living cannot be changed by either his own act or that of his guardian;
7. The residence can be changed only by the union of act and intent.

**§ 13. All persons within the state subject to its jurisdiction.** Every person while within this state is subject to its jurisdiction and entitled to its protection.

§ 14. **Allegiance.** Allegiance is the obligation of fidelity and obedience which every citizen owes to the state.

§ 15. **Allegiance, may be renounced.** Allegiance may be renounced by a change of residence.

§ 16. **Persons not citizens.** Persons in this state not its citizens, are either:

- 1. Citizens of other states; or,
- 2. Aliens.

§ 17. **Eligibility to office.** Every elector is eligible to the office for which he is an elector, except when otherwise specially provided; and no person is eligible who is not such an elector.

§ 18. **Rights and duties of citizens not electors.** An elector has no rights or duties beyond those of a citizen not an elector, except the right and duty of holding and electing to office.

§ 19. **Rights and duties of citizens of other states.** A citizen of the United States who is not a citizen of this state has the same rights and duties as a citizen of this state not an elector.

## CHAPTER 2.

### THE LEGISLATIVE ASSEMBLY.

#### ARTICLE 1.— MEETING AND ORGANIZATION OF THE LEGISLATIVE ASSEMBLY.

§ 20. **Legislative assembly meets, when.** The legislative assembly shall meet at the seat of government at twelve o'clock noon on the first Tuesday after the first Monday in January in the year next following the election of the members thereof. § 53, Const.

§ 21. **Secretary of senate and chief clerk of house to make roll of members.** It shall be the duty of the secretary of the senate and the chief clerk of the house, at the opening of each session of the legislative assembly to make a correct roll of the members of their houses respectively to whom certificates of election have been issued by the proper officers, which certificates shall be filed by such secretary and chief clerk, and the same shall be prima facie evidence of the right to membership of the person certified therein to be elected for all purposes of the organization of either branch of the legislative assembly. § 14, c. 2, Pol. C. am'd.

§ 22. **Legislative sessions called to order by secretary and chief clerk.** In all cases the secretary of the senate and chief clerk of the house serving at the close of a session shall remain in office until the organization of the next regular session of the legislative assembly, and at twelve o'clock noon on the day appointed by law for the meeting of the legislative assembly the said officers, or in the absence of either, then some member or other person appointed by the members present shall call the members of their respective houses so enrolled to order, when the members may proceed to the election of the necessary officers. The term of office of all officers of the senate and house of representatives shall expire with the close of the session at which they were elected, except the secretary of the senate and the chief clerk of the house for the purposes herein designated. § 15, c. 2, Pol. C. am'd.

§ 4, c. 2, Pol. C.  
am'd.  
§ 48, Const.

**§ 23. Punishment by each house for offenses.** Each house may punish by imprisonment, as for a contempt, a breach of its privileges or the privileges of its members; but only for one or more of the following offenses:

1. Knowingly arresting a member or officer of the house, or procuring such member or officer to be arrested in violation of his privilege from arrest.

2. Disorderly conduct in the immediate view of the house and directly tending to interrupt its proceedings.

3. Refusing to attend and be examined as a witness either before the house, or a committee thereof, or before any person authorized to take testimony in legislative proceedings.

4. Giving or offering a bribe to a member, or attempting by menace or other corrupt means or device, directly or indirectly, to control or influence a member in giving his vote, or to prevent his giving the same; but the term of imprisonment which such house may impose for any contempt specified in this section shall not continue beyond thirty days, nor extend beyond the same session of the legislative assembly.

§ 5, c. 2, Pol. C.

**§ 24. Contempt a misdemeanor.** Every person who shall be guilty of any contempt specified in the preceding section shall also be deemed guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment not exceeding six months, or by fine not exceeding five hundred dollars, or by both, at the discretion of the court.

§ 6, c. 2, Pol. C.  
am'd.

**§ 25. Administering oath to members and officers of the legislative assembly.** The speaker of the house and the president of the senate, the governor, or any of the judges of the supreme or district courts are authorized to administer the oath of office to the members and officers of the respective houses.

§ 8, c. 2, Pol. C.

**§ 26. Chairman of committee may administer oath, when.** Any member of the senate or house of representatives, while acting as chairman of a committee of the house of which he is a member, shall have authority to administer oaths to such persons as shall be examined before the committee of which he is a member.

§ 9, c. 2, Pol. C.

**§ 27. Contested seats. Each house sole judge of member's qualifications.** In case the right of any person to a seat in either house of the legislative assembly shall be contested, the right of such person to a seat as aforesaid shall be determined by the house in which he claims such seat as a member; and each house shall in all cases be the sole judge of the qualifications of its members.

## ARTICLE 2.—LEGISLATIVE OFFICERS AND EMPLOYEES.

§ 1, c. 76, 1895.  
§§ 1.2, c. 97, 1898.

**§ 28. Officers and employees. Compensation.** The following shall be the officers and employees of the senate and house of representatives of the legislative assembly with the compensation as herein provided for:

For the senate:

A president pro tempore, whose compensation shall be two dollars per day.

One secretary, whose compensation shall be six dollars per day.

One assistant secretary, whose compensation shall be five dollars per day.

One enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be four dollars per day.

One door-keeper, whose compensation shall be three dollars per day, and who shall be an assistant to the sergeant-at-arms.

One messenger, whose compensation shall be three dollars per day.

One postmaster, whose compensation shall be four dollars per day.

One chaplain, whose compensation shall be two dollars per day.

Two pages, whose compensation shall be two dollars per day each.

One janitor, whose compensation shall be three dollars per day.

One watchman, whose compensation shall be three dollars per day.

One clerk of the judiciary committee whose compensation shall be five dollars per day.

One journal clerk, who shall be under the supervision of the secretary of the senate, and whose compensation shall be five dollars per day.

The journal of the senate shall be completed and indexed by the secretary of the senate within ten days after adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty dollars.

In addition to the above there shall be appointed by the president, when deemed necessary by the senate, such assistant enrolling and engrossing clerks as may be actually necessary, who shall receive a compensation of four dollars per day; provided, that during the first twenty-five days the number of such clerks shall not exceed six; during the second twenty-five days the total number shall not exceed ten, and during the last ten days the total number shall not exceed fifteen.

For the house of representatives:

A speaker, whose compensation shall be two dollars per day.

One chief clerk, whose compensation shall be six dollars per day.

One assistant clerk, whose compensation shall be five dollars per day.

One chief enrolling and engrossing clerk, whose compensation shall be five dollars per day.

One bill clerk, whose compensation shall be five dollars per day.

One stenographer, whose compensation shall be five dollars per day.

One sergeant-at-arms, whose compensation shall be four dollars per day.

One door-keeper, whose compensation shall be three dollars per day, and who shall be an assistant to the sergeant-at-arms.

One messenger, whose compensation shall be three dollars per day.

One postmaster, whose compensation shall be four dollars per day.

One chaplain, whose compensation shall be two dollars per day.

Four pages, whose compensation shall be two dollars per day each.

The janitors, whose compensation shall be three dollars per day.

One watchman, whose compensation shall be four dollars per day.

One clerk of the judiciary committee, whose compensation shall be five dollars per day.

One journal clerk, whose compensation shall be five dollars per day, and who shall be under the supervision of the chief clerk of the house.

The journal of the house shall be completed and indexed by the

chief clerk of the house within ten days after the adjournment thereof, and for such completion and indexing he shall be allowed the sum of fifty dollars. In addition to the above there shall be appointed by the speaker, when deemed necessary by the house, such assistant enrolling and engrossing clerks as are actually necessary, who shall receive four dollars per day; provided, that during the first twenty-five days of the session the number of such clerks shall not exceed six; during the second twenty-five days the total number shall not exceed ten, and during the last ten days the total number shall not exceed fifteen.

§ 11, c. 2, Pol. C.  
am'd.

**§ 29. Officers elected viva voce. Oath.** The officers of each house shall be elected by viva voce vote of the members thereof, at such time after the meeting of such house as the members thereof shall deem proper, and they shall be required to take and subscribe the oath prescribed in section 211 of the constitution. Neither house shall transact any business other than the election or appointment of officers, until such officers are elected or appointed pro tem.

§§ 2, 4, 5, c. 86,  
1890.

§ 3, c. 76, 1895.

**§ 30. Assistant legislative clerks and employees, how appointed.** The president of the senate and the speaker of the house of representatives are authorized to appoint from time to time such assistant enrolling and engrossing clerks and such committee clerks or other employees for their respective houses in addition to those hereinbefore provided for, as in the judgment of their respective bodies, may be deemed necessary for the transaction of their business; but the compensation of such subordinate clerks and employees so appointed shall not exceed the sum of four dollars per day.

§ 6, c. 86, 1890.

§ 4, c. 76, 1895.

**§ 31. Salaries, how audited and paid. Clerks may be discharged for incompetency.** The respective amounts due each clerk, officer or employee so employed and appointed shall be audited and paid out of the state treasury upon an account certified as correct by the presiding officer of the respective houses, duly attested by the secretary and chief clerk thereof, and when so audited and attested the state auditor is authorized and directed to draw his warrants therefor upon the state treasurer.

§ 6, c. 86, 1890.

§ 5, c. 76, 1895.

**§ 32. Discharge of officers, clerks and employees.** Whenever any officer, clerk or employee through neglect or incompetency shall fail properly to discharge the duties of his office or position, it shall be the duty of the respective body to declare the office or position vacant and to fill the vacancy so created.

§ 12, c. 2, Pol. C.  
am'd.

**§ 33. Secretary of senate and chief clerk of house to keep journals, preserve and file documents.** It shall be the duty of the secretary of the senate and chief clerk of the house of representatives to keep correct journals of the proceedings of their respective houses; to have the custody of all records, accounts, and other papers committed to them, and at the close of each session of the legislative assembly to deposit for safe keeping in the office of the secretary of state all books, bills, documents, resolutions and papers in the possession of the legislative assembly, correctly labeled, folded and classified, and generally to perform such duties as shall be assigned them by their respective houses; provided, that the journals need not be deposited as above provided until they are fully completed and indexed.

§ 13, c. 2, Pol. C.  
§ 1, c. 79, 1883.

§ 1, c. 110, 1885.

**§ 34. Secretary of senate and chief clerk of house to prepare and index journals.** It shall be the duty of the secretary of

the senate and the chief clerk of the house at the close of each session to prepare for the press and superintend the publication of the journals of the proceedings of the respective houses, and to affix an index thereto; and to transcribe into a book kept for that purpose the documents accompanying the messages of the governor, or by him sent to either house, other than those entered in the journal, or the documents reported to either branch of the legislative assembly by any public officer of the state in pursuance of law for which service they shall be allowed the compensation provided in section 28. The state auditor is hereby instructed to draw his warrants on the state treasurer in favor of each of said officers for such sum on proof being made that the record has been completed and the journals indexed as above required.

**§ 35. Either house may remove its officers.** It shall be competent at any time during a session of the legislative assembly for either house by a majority vote to remove from office any of the officers or employees provided for in this article; but in case of the removal of any officer by either house his place shall be filled by an election viva voce; and in all elections under the provisions of this article for officers of either house of the legislative assembly a majority of all votes cast shall be necessary to a choice. § 17, c. 2, Pol. C.

**§ 36. Mileage and per diem of members, salaries of officers and employees.** There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, as a standing and continuing appropriation, such a sum as may be necessary to pay the mileage and per diem of members and the salaries of the officers and of the employees of the legislative assembly; and the state auditor is authorized to draw his warrants on the state treasurer for such sums as may from time to time become due to such members and employees. §§ 1, 2, c. 8, 1891.

### ARTICLE 3. — SENATORIAL AND REPRESENTATIVE DISTRICTS AND LEGISLATIVE APPORTIONMENT.

**§ 37. State legislative apportionment.** The first district consists of the townships of Walhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton in the county of Pembina, and is entitled to one senator and two representatives. § 214, Const. 1, c. 1, 1890.

The second district consists of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beaulieu, Thingvalla, Gardar, Park, Crystal, Elora and Lodema in the county of Pembina, and is entitled to one senator and two representatives.

The third district consists of the townships of Perth, Latonia, Adams, Silvesta, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Park River, Glenwood, and townships 155, 156, 157 and 158 of range 59 in the county of Walsh, and is entitled to one senator and two representatives.

The fourth district consists of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardoch, Village of Ardoch, Harrison, city of Grafton, Oakwood, Martin, Walshville, Pulaski, Acton, Minto and St. Andrews in the county of Walsh, and is entitled to one senator and three representatives.

The fifth district consists of the townships of Gilby, Johnstown,

Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore, and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood, Niagara, Moraine, Logan and Loretta in the county of Grand Forks, and is entitled to one senator and two representatives.

The sixth district consists of the third, fourth, fifth and sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconor, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant in the county of Grand Forks, and is entitled to one senator and two representatives.

The seventh district consists of the first and second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union and Washington in the county of Grand Forks, and is entitled to one senator and two representatives.

The eighth district consists of the county of Traill, and is entitled to one senator and four representatives.

The ninth district consists of the township of Fargo, and the city of Fargo in the county of Cass, and the fractional township number 139, in range 48, and is entitled to one senator and two representatives.

The tenth district consists of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Addison, Davenport, Casselton and the city of Casselton in the county of Cass, and is entitled to one senator and three representatives.

The eleventh district consists of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac in the county of Cass, and is entitled to one senator and three representatives.

The twelfth district consists of the county of Richland, and is entitled to one senator and three representatives.

The thirteenth district consists of the county of Sargent, and is entitled to one senator and two representatives.

The fourteenth district consists of the county of Ransom, and is entitled to one senator and two representatives.

The fifteenth district consists of the county of Barnes, and is entitled to one senator and two representatives.

The sixteenth district consists of the counties of Steele and Griggs, and is entitled to one senator and two representatives.

The seventeenth district consists of the county of Nelson, and is entitled to one senator and one representative.

The eighteenth district consists of the county of Cavalier, and is entitled to one senator and two representatives.

The nineteenth district consists of the counties of Towner and Rolette, and is entitled to one senator and one representative.

The twentieth district consists of the counties of Benson and Pierce, and is entitled to one senator and two representatives.

The twenty-first district consists of the county of Ramsey, and is entitled to one senator and two representatives.

The twenty-second district consists of the counties of Eddy, Foster and Wells, and is entitled to one senator and two representatives.



The twenty-third district consists of the county of Stutsman, and is entitled to one senator and two representatives.

The twenty-fourth district consists of the county of LaMoure, and is entitled to one senator and one representative.

The twenty-fifth district consists of the county of Dickey, and is entitled to one senator and two representatives.

The twenty-sixth district consists of the counties of Emmons, McIntosh, Logan and Kidder, and is entitled to one senator and two representatives.

The twenty-seventh district consists of the county of Burleigh, and is entitled to one senator and two representatives.

The twenty-eighth district consists of the counties of Bottineau and McHenry, and is entitled to one senator and one representative.

The twenty-ninth district consists of the counties of Ward, McLean and all the unorganized counties lying north of the Missouri river, and is entitled to one senator and one representative.

The thirtieth district consists of the counties of Morton and Oliver, and is entitled to one senator and two representatives.

The thirty-first district consists of the counties of Mercer, Stark and Billings and all the unorganized counties lying south of the Missouri river, and is entitled to one senator and one representative.

#### ARTICLE 4. — PRINTING AND DISTRIBUTION OF LAWS AND DOCUMENTS.

§ 38. **Printing commission.** The secretary of state, state treasurer and state auditor shall be ex officio commissioners of public printing during their terms of office respectively. § 1, c. 119, 1890.

§ 39. **Classes of printing.** The printing of the state is hereby divided into five classes, the first and second to be let in one contract, and the third, fourth and fifth classes in separate contracts as follows: § 2, c. 119, 1890.

1. The printing of bills, resolutions and other documents for the use of and incident to the legislative assembly shall constitute the first class.

2. The printing and binding of the journals of the senate and house of representatives shall constitute the second class.

3. The printing and binding of executive and public documents and reports shall constitute the third class.

4. The printing and binding of the volume of laws, with the joint resolutions, which shall be included in said volume, shall constitute the fourth class.

5. The printing of all blanks, circulars and other miscellaneous job work necessary for the use of the executive departments, other than such as are printed in pamphlet form and not entering into the volumes of executive documents, and all printing not included in the foregoing classes shall constitute the fifth class.

§ 40. **Proposals for printing.** The commissioners of public printing shall at least six months immediately preceding each regular session of the legislative assembly advertise for four weeks successively in two daily papers in the state, one of which shall be at the seat of government, inviting sealed proposals for doing all printing and binding required by the legislative assembly and by the several state departments for the two succeeding years commencing with the first day of January next following the date of the contract, and such bids shall specify at what per cent below the maximum rates sever-

ally prescribed in the next section the bidder will perform the work and furnish the stock.

§ 4, c. 119, 1890.

**§ 41. Maximum prices for composition, press-work, binding and paper.** The following prices are hereby established as the maximum prices for doing such work:

Composition: Sixty cents for each one thousand ems of plain composition; ninety cents for each one thousand ems of figure work; one dollar and twenty cents for each one thousand ems of rule and figure work.

Press-work: For the first one hundred impressions of form, one dollar; and twenty-five cents for each additional one hundred impressions or fraction thereof—one side of the sheet of flat cap, folio or medium, two pages on bill work, and eight pages of pamphlet or journal work, or fraction thereof, to constitute a form.

Folding and pasting on the first and fifth classes, for one fold, eight cents per hundred sheets; for two folds on one sheet, twelve cents per hundred sheets; for two folds and pasting and tipping, twenty-five cents per one hundred sheets, including trimming. On the second, third and fourth classes, when no charge is made for binding, ten cents per one hundred of eight pages or fraction thereof.

For stitching for all classes, including folding, collating, stabbing, stitching and trimming per one hundred copies, for eight pages or less, thirty-five cents per one hundred copies, and for each additional signature of eight pages, ten cents per one hundred copies.

For binding for all classes, including folding, collating, stabbing, stitching and pamphlet covering for books of eight pages or less, per one hundred copies, forty cents; for each additional signature of eight pages, ten cents per one hundred copies; if sewed instead of stitched, twelve cents per one hundred copies for each additional signature.

For binding: Book-work in tar board covered with paper, leather backs, lettered on back with ink, in addition to the pamphlet binding, thirty-five cents per volume.

For binding book-work in cloth, gilt lettering on back, in addition to pamphlet binding, thirty-five cents per volume.

For binding in full law sheep, and lettering, in addition to the pamphlet binding, seventy-five cents per volume.

The printing under the fifth class, which includes miscellaneous job work for the executive departments and other miscellaneous printing not covered by this article shall be under the control of the commissioners of printing, who shall secure the same at the lowest rates and upon the most advantageous terms.

For printing blank books, either ruled and printed or ruled without printing, the paper used to be sized and calendered, and of standard brands:

Cap paper, eighteen pounds to the ream, plain ruled, half-bound, one dollar and twenty-five cents per quire; ditto, printed heads, one dollar and seventy-five cents per quire; ditto, plain ruled extra full bound, two dollars per quire; ditto, printed heads, two dollars and fifty cents per quire.

Demy paper, twenty-eight pounds to the ream, plain ruled, half-bound, one dollar and fifty cents per quire; ditto, printed heads, two dollars per quire; ditto, plain ruled, extra full bound, two dollars and fifty cents per quire; ditto, printed heads, three dollars per quire.

Medium paper, thirty-six pounds to the ream, plain ruled, half-bound, two dollars per quire; ditto, printed heads, two dollars and

fifty cents per quire; ditto, plain ruled extra full bound, three dollars per quire; ditto, printed heads, three dollars and fifty cents per quire.

Medium paper, forty pounds to the ream, plain ruled, extra full bound, four dollars per quire; ditto, printed heads, four dollars and fifty cents per quire.

Super-royal paper, fifty-four pounds to the ream, plain ruled, extra full bound, four dollars and fifty cents per quire; ditto, printed heads, five dollars per quire.

**§ 42. Paper, quality, price.** All paper used for printing and binding of whatever nature shall be standard weights and grades and approved by the commissioners of printing. The maximum price of sized and calendered book paper shall be ten cents per pound; of linen ledger paper, twenty-five cents per pound; common flat paper, eighteen cents per pound; best bond paper twenty-five cents per pound. § 4. c. 119, 1890.

**§ 43. Proposals how made. Bond required.** Each proposal shall be in writing, sealed and addressed to the secretary of state, and shall be accompanied by a bond, executed in due form by the bidders, with at least two good and sufficient sureties, satisfactory to the commissioners, in the penal sum of four thousand dollars, conditioned for the faithful performance pursuant to this article of such class or classes of the state printing as may be awarded to him, and for the payment, as liquidated damages by such bidder to the state of any excess of cost over the bid of such bidder, which the state may be obliged to pay for such work by reason of the failure of such bidder to complete his contract. No bid unaccompanied by such bond shall be considered, and the right is reserved to the commissioners to reject any bid made by any other than regularly established and thoroughly competent printers, and shall also have the right to reject any or all bids if in their judgment the best interests of the state would be subserved thereby. § 5. c. 119, 1890.

**§ 44. Opening of bids. Awards.** The commissioners, or any two of them, shall within two days after the expiration of the term for receiving proposals as aforesaid, and not later than the first Tuesday after the first Monday in August proceed to open in public all such proposals received by them and to award the contract for each class of printing to the lowest bidder therefor, subject to the reservations of the preceding section; provided, that nothing herein contained shall be construed so as to prevent the same person from becoming contractor for two or more classes of printing, if he shall be the lowest bidder therefor. If two or more persons bid the same, and the lowest price for any class, or classes of printing, the commissioners shall award the contract to such one or more of them as in their opinion will best subserve the interests of the state. § 6. c. 119, 1890.

**§ 45. How bills to be printed.** Work of the first class shall be printed on first-class sized and calendered paper, from small pica type, with double the space between each line, the printed pages to be thirty-three ems pica wide and fifty-five ems pica long; one hundred and fifty copies of each bill shall be printed unless otherwise ordered by resolution of either house. § 7. c. 119, 1890.

**§ 46. How journals to be printed.** The journals of the legislative assembly shall be printed on first-class sized and calendered paper, of not less than forty pounds to the ream, size 25x38, from long primer type set solid (except that extracts, table-work, roll-calls, etc., may be set in brier or smaller type); the printed pages to be twenty-five ems pica in width and forty-three ems pica in length. § 8. c. 119, 1890.

Double the contract price will be allowed upon the journals when printed daily for the use of the members, but nothing shall be charged for composition or correction, or re-imposition of the same matter for the bound journal, nor shall extra charge for composition be made when extra or additional copies are ordered printed.

§ 9, c. 119, 1890.

§ 47. **Executive documents, how printed.** The pamphlets and volumes of executive or public documents and reports shall be printed on first-class sized and calendered paper of not less than forty pounds to the ream, size 25x38, from long primer type, set solid; provided, that extracts and tabular work may be set in brevier or smaller type, the printed pages to be twenty-five ems pica in width and forty-three ems pica in length. The reports of the officers of the various departments, required to be made out for the use of the legislative assembly and for the information of the public, shall be printed and bound as elsewhere in this article provided, and the various reports, communications and other documents shall be reimposed and form the volumes of executive and public documents. There shall be no charge for the composition of matter used in the volumes of executive documents, or as separate pamphlets, or as parts of reports that are to be used, or had been previously used and paid for in the pamphlet form; provided, that the order for the same is given before the forms of type are distributed; but the maximum rate of one dollar for reimposition of each form of eight pages may be allowed. The volumes of the executive documents shall be paged consecutively, and the reports therein made up in as close and compact order as is consistent with good workmanship, without intervention of unnecessary blanks or separate title or half title pages, and at the conclusion of each volume there shall be an index referring to the particular page at which each separate document commences. The commissioners shall determine what reports and documents shall be printed in pamphlet form, and the number of copies of each report or document, when not specified by law. There shall be printed and bound three hundred copies of each volume of the executive documents.

§ 10, c. 119, 1890.

§ 48. **Laws, how printed.** The laws specified in the fourth class shall be printed in substantially the same form as to type, paper and form, as is prescribed for the printing of public documents in the preceding section.

§ 49. **Expert, duties and compensation of.** The commissioners of public printing may employ an expert, familiar with all classes of printing, the material used therein, measuring the work done and computing the price to be paid therefor, for such period of time each year as may be necessary for the performance of the duties devolving upon him, whose duty it shall be to confer and advise with such commissioners relative to advertising and letting contracts, to examine all work and supplies for the purpose of ascertaining whether the same conforms to the contract, to examine all accounts for public printing for the purpose of determining whether the charges contained in such accounts are correct, and to report the result of his examination to the commissioners and to perform such other duties as may be required of him by the commissioners. He shall receive the sum of six dollars per day for each day in which he is engaged in such employment, to be audited by the auditor upon the certificate of the commissioners and paid out of the state treasury as in other cases.

§ 11, c. 119, 1890.

§ 50. **Printing, how done.** All printing shall be done by established printing houses in this state, which shall have been doing

business in the state not less than one year, and all work shall be executed in a style consistent with good workmanship and with due reference to economy.

**§ 51. Duty of commissioners in case of failure on contract.** If from death or any unforeseen cause there shall be a failure on the part of any successful bidder to execute his contract, the commissioners, or a majority of them, may enter into a contract with the next lowest bidder. If any contractor after commencing upon his contract fails to execute the work embraced therein with reasonable expedition, and in a suitable manner, the commissioners may notify him for reasons they may specify that his contract is canceled, and they may then contract with some other person to do the work at the lowest practicable rate; provided, that the commissioners may give written notice to any contractor who is delaying the execution of the work in a manner they may deem unreasonable, that the same must be completed within a specified time, and for failure to complete the same within the time specified, that for every twenty-four hours delay thereafter the contractor shall suffer a penalty of one-quarter per cent to be deducted from the net amount of the printing so delayed. § 12, c. 119, 1890.

**§ 52. Number of volumes to be printed and style of binding.** Five hundred volumes of the laws required by this article to be printed shall be bound in full law sheep, and one thousand copies shall be half-bound. The volumes of executive documents provided for in section 47 of this article shall be bound in half binding. Two hundred copies of the biennial reports of the state auditor, state treasurer, commissioner of insurance and superintendent of public instruction shall be bound in cloth, the remainder authorized by law, to be bound in pamphlet form, unless otherwise ordered by the commissioners of printing. § 13, c. 119, 1890.

**§ 53. Unnecessary delay, how extension granted.** All contractors under the provisions of this article shall promptly and without unnecessary delay execute all orders issued to them by the legislative assembly, or either branch thereof, or by the commissioners of printing on behalf of the executive officers of the state; and the laws and volumes of public documents shall be delivered to the secretary of state within seventy days, and the journals of the two houses of the legislative assembly within sixty days after the index shall have been made out and delivered to the contractor; provided, that the commissioners may on good cause shown extend the time, not exceeding twenty days, for the execution of his contract. § 14, c. 119, 1890.

**§ 54. Commissioners may reject inferior printing and work.** The commissioners may reject any and all printing that is not done in a workmanlike manner, or with good material and with ordinary promptness; and may require contractors to present specimen pages of the type they propose to use, and may reject the same, in their discretion, and require new material, and their ruling and determination shall be final and conclusive on the contractor. Only good, clean and satisfactory work shall be accepted, and it must be done within a reasonable time. To accomplish this end the commissioners may withdraw the work from any contractor for unreasonable delay, or for neglect or refusal to use new material, if so required, or for neglect or refusal to furnish good, clean, or satisfactory work, and may, by their agent or otherwise, go into the open market and contract for and have the same done; and if by reason thereof the cost of having any such work done is greater than the original contract § 15, c. 119, 1890. am'd.

price, the excess shall be charged to and collected from the original contractor, or shall be made payable by and collected from the bondsmen of such original contractor; and the action of the commissioners in this matter shall be final and conclusive upon such contractor and his sureties.

§ 16, c. 119, 1890.

**§ 55. Legislative journals, who keep and furnish copy.** The secretary of the senate and the chief clerk of the house shall keep a journal of the proceedings of their respective houses, and furnish a copy immediately upon each daily adjournment to the contractor for printing the same, who shall print and deliver the same at the commencement of the next day's session for the use of the members of the legislative assembly—the number of copies of each daily journal to be determined by resolution of each branch of the legislative assembly. After being read in the house to which the journals respectively belong, and examined and compared with the minutes of the record or bill clerk or the clerk having charge of the record of bills, memorials and joint resolutions, and in the presence and with the sanction of the house, corrected as found and declared to be correct the proceedings of each day shall be attested by the secretary and chief clerk, and immediately thereafter delivered to the printer of the journals, who shall make the authorized corrections, if any, and print the sheets for the bound volumes of the journal. Each journal shall be recorded in books to be furnished by the secretary of state for that purpose. After the journals are recorded said books shall be deposited with the secretary of state, who shall carefully preserve the same, and such records shall be considered the true and authentic journal.

§ 17, c. 119, 1890.

**§ 56. Copies of laws and journals to be furnished printer, by whom.** The secretary of state shall furnish a true and accurate copy of the laws as they may be demanded by the printer thereof, and the secretary of the senate and the chief clerk of the house shall each furnish for the printer, who is bound by his contract to print the same, copies of the journal, bills, reports and other papers and documents without unnecessary delay and no contractor shall be accountable for any delay occasioned by the want of such copy.

§ 18, c. 119, 1890.

**§ 57. Authentication of laws, memorials and resolutions.** All laws printed or published by authority of this state shall be printed or published without any certificates or additions to the same, except the word "approved" and the date of such approval, and in each volume of the session laws hereafter published there shall be a general certificate made by the secretary of state to the effect that all laws, memorials and resolutions contained therein have been compared by him with the originals thereof in his office, and that they are correct copies.

§ 19, c. 119, 1890.

**§ 58. Governor's messages, how printed and number.** All regular messages from the governor and all inaugural messages of the governor-elect shall be printed in pamphlet form and there shall be printed in such form for the governor's use five hundred copies, and for the use of the legislative assembly two thousand copies without any order by either house for the printing thereof.

§ 20, c. 119, 1890.

**§ 59. Biennial and special reports, how printed.** There shall be printed one thousand copies of the biennial reports of the state auditor, state treasurer and superintendent of public instruction and five hundred copies of the biennial reports of other state officers, and public boards required to make reports; and six hundred

copies of the biennial reports of the commissioner of insurance; also one thousand copies of the biennial reports of the commissioner of agriculture and labor; provided, that on request of the commissioner of agriculture and labor, such request to be approved by the governor, there shall be printed separately in pamphlet form such parts of the biennial report of said commissioner of agriculture and labor, or such special papers or articles in connection therewith, and such crop reports or other papers or pamphlets from time to time as such commissioner and the governor may jointly recommend for such separate publication; and the number of copies to be printed of each of said separate publications, crop reports or other papers or pamphlets shall be determined by the commissioner of agriculture and labor and the governor jointly.

**§ 60. Journals and laws, number of printed.** There shall be printed one hundred and fifty copies of each journal for the daily use of the legislative assembly, and three hundred copies of the bound edition which shall be in half binding; provided, that the legislative assembly may by concurrent resolution increase such number; one thousand five hundred copies of the general and special laws and joint resolutions shall be printed in one volume and bound in accordance with the provisions of this article. § 21, c. 119, 1890.  
am'd.

**§ 61. Commissioners have charge of all printing paid for by the state.** The commissioners shall have charge of all the printing and binding required to be done for the several departments of the government; receive the proper orders for the same, and have the same properly executed according to law; keep a record of all work ordered from the several contractors under the law, and of all printing and binding ordered by the legislative assembly; examine and supervise the work of printing in progress, and see it is executed with due economy to the state; make or authorize to be made the necessary indices for the volumes of the executive documents and reports; examine all accounts for printing and binding that may be presented, and adjust the same according to the terms of the contracts and in accordance with law and such rulings as may be determined by the commissioners. No printing required by any state officer as provided under this article shall be paid for unless the same shall have first been authorized by the legislative assembly or by the commissioners of printing. § 22, c. 119, 1890.  
am'd.

**§ 62. Copies of documents to accompany bills for printing.** Every contractor for public printing shall file and preserve one copy of each document or other matter printed by him for the state, which he shall deliver to the commissioners of printing at the same time the completed work is delivered together with a memorandum bill of the same. In the account submitted for the payment of the work the contractor shall at the same time submit his order for the work and state specifically the nature of the work performed, the number of copies, the number of ems of composition, the extra charge, if any, for rule or figure and rule and figure work; the number of impressions of press work, the cost of folding and binding and any other charges for which he claims payment; and if there is a charge for any alterations or changes from copy, the proofs of original composition and changes must be presented. § 23, c. 119, 1890.

**§ 63. Printing accounts, how certified and paid.** When the account of any contractor under this article shall have been adjusted, the commissioners shall certify the same to the state auditor, § 24, c. 119, 1890.

who on receipt thereof shall draw his warrant upon the state treasurer for the amount thereof; provided, that in the current execution of such contracts the commissioners are empowered, in their discretion, to deliver to such contractor a certificate for an amount not exceeding seventy-five per cent of completed work upon the contractor filing with the commissioners a statement of the amount of work done, for which amount the state auditor shall give his warrant upon the state treasurer to such contractor.

§ 25, c. 119, 1890.

**§ 64. Distribution of journals and executive documents.**

Each member and officer of the legislative assembly, for himself, and each clerk of a court of record, and each county auditor, for the use of their offices respectively, is entitled to one copy of each journal, and the volumes of the executive documents. Each university, college, academy or other literary institution within the state is entitled to one copy of the general laws passed at each session of the legislative assembly and also to the volumes of executive documents.

§ 26, c. 119, 1890.  
am'd.

**§ 65. Who entitled to the laws. Penalty for refusing to turn over same by officers to successors.**

Each member and officer of the legislative assembly, for himself, shall have a copy of the laws; each judge and clerk of a court of record; each justice of the peace, each auditor or clerk in any city or incorporated village; each county auditor, treasurer, sheriff, register of deeds and state's attorney is entitled to receive one copy of the general laws passed at each session of the legislative assembly for his use while filling such offices, but every such officer, except members and officers of the legislative assembly, shall deliver the same to his successor in office for his use while filling such office; and if any person refuses on demand, to make such delivery, he shall forfeit and pay not less than five nor more than fifteen dollars to be recovered in a civil action brought by the successor in office of any such person in the name of the state for the use of the county where such action is brought before any justice of the peace in such county.

§ 27, c. 119, 1890.  
am'd.

**§ 66. Secretary of state to furnish laws, journals and documents to state officers, libraries, etc.**

The secretary of state shall deliver to the governor, state auditor, state treasurer, attorney general, adjutant general, railroad commissioners, commissioner of insurance, commissioner of agriculture and labor, clerk of the supreme court, supreme court reporter, superintendent of public instruction, the superintendent of every state benevolent society, each public institution, United States circuit judge, United States district judge, clerk of each of the United States courts, United States attorney for North Dakota and the United States marshal, each, one copy of the laws and of the journals and documents. He shall supply each state and each of the departments and territories of the United States and the general government of the United States with a copy. He shall furnish the state library with ten copies of the general and special laws, the journals and the volumes of executive documents.

§ 28, c. 119, 1890.

**§ 67. Secretary of state to forward laws, journals and documents.**

The secretary of state shall as soon as the laws, journals and executive documents of each session are printed and ready for distribution box up the number of each to which each county is entitled and forward the same by public conveyance to the county auditor of the county. If any county seat is so situated that the laws, journals and documents cannot be forwarded by public conveyance, they shall be forwarded to a secure place as near such county



seat as practicable, and the secretary of state shall notify the county auditor, in writing of the delivery of the same at such points, and the county auditor shall contract with some person to convey the same to the county seat.

§ 68. **Document fund, appropriation for.** For the purpose of defraying the expenses incident to the provisions of the four preceding sections there is hereby annually appropriated the sum of two hundred dollars to be designated "Document Fund," upon which the secretary of state can draw at such times and for such amounts as may be necessary in the discharge of the duties imposed by such sections. § 29, c. 119, 1890.

§ 69. **County auditors, when to deliver documents, etc.** The county auditor shall deliver the laws, journals and documents to such persons and institutions as are entitled to receive them, when requested so to do, and shall take receipts therefor and file the same in his office subject to inspection. § 30, c. 119, 1890.

§ 70. **When documents officially printed. Faith and credit given.** All laws, journals and documents printed and published by any contractor under the provisions of this article, and duly certified by the secretary of state as provided herein, shall be deemed to be officially printed and published, and full faith and credit shall be given to them as such. § 31, c. 119, 1890.

§ 71. **Where laws, journals and documents preserved.** All copies of the journals, executive documents and laws which are not distributed under the provisions of this article shall be preserved in the office of the secretary of state, subject to distribution by law. § 32, c. 119, 1890.

§ 72. **When official reports to be made.** All county, township, city and village officers, and all officers and boards of state institutions and all officers connected with the public works of the state, and all corporations, except such as are required to make their reports at some other specified time, which are required by law to make annual reports for any purpose to any state officer, shall make out and transmit the same on or before the fifteenth day of August of each year to the proper officer. For the purpose of making out such report the year shall begin on the first day of July of each year and end on the last day of June of the succeeding year. § 33, c. 119, 1890. am'd.

§ 73. **Reports to governor and legislative assembly. When to be made.** All officers and boards required to make reports to the governor or to the legislative assembly shall make such reports on or before the fifteenth day of September, and all such reports, whether required annually or biennially, shall be made to and include the thirtieth day of June preceding. The governor upon receiving such report shall deliver the same to the commissioners of public printing to be printed, and he shall lay such printed reports before the legislative assembly at its next session together with his biennial message. § 34, c. 119, 1890.

§ 74. **Bids, when received.** No bids shall be received after the hour specified in the published notice, and no bid shall be changed after the same is received.

§ 75. **Penalty for violation.** Any member of such board who violates any of the provisions of this article is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than one thousand nor more than five thousand dollars.

§ 76. **Printing accounts to be approved. Appropriation for.** All accounts for printing and binding required by the governor § 1, c. 18, 1830.

and other state officials, and for such printing and binding as may be authorized by the legislative assembly shall be certified to according to law, and when such accounts shall have been approved in writing by the secretary of state, whose duty it shall be to keep a record of and carefully examine all printing so authorized, the state auditor shall draw his warrant on the state treasurer for such sums as may be found due, and there is hereby appropriated out of any moneys in the state treasury not otherwise appropriated a sum sufficient to pay for said printing.

§ 2, c. 3, Pol. C.

**§ 77. Secretary to arrange and correct laws.** In arranging the laws, memorials and resolutions for publication the secretary of state is authorized to make such corrections in orthography, grammatical construction and punctuation of the same as in his judgment shall be proper; but when any words or clauses are inserted, the same shall be enclosed in brackets.

§ 7, c. 3, Pol. C.

**§ 78. Officers to deliver laws to successors.** Whenever any person shall be elected to fill any of the county, township or district offices in this state it shall be such person's duty before taking possession of the office to procure from the county auditor of his county a copy of the receipts filed with such auditor by the outgoing officer for any volumes of the laws of this state: which copy of receipt the person so elected shall exhibit to his predecessor in office at the time he assumes the duties of his office, and shall require from his predecessor all the volumes of laws which he may have received, as shown by such receipt, and it shall be the duty of such officer after having received from his predecessor the volumes of laws to make out duplicate receipts of the same, one of which receipts he shall give to his predecessor in office, and the other he shall forthwith transmit to the county auditor of the county, who is hereby required to file the same in his office.

§ 10, c. 3, Pol. C.

**§ 79. Secretary of state to sell statutes.** The secretary of state shall sell to any person applying therefor the volumes of laws of this state for the cost and ten per cent added, and pay over to the state treasurer all sums so received, taking the official receipt of such treasurer therefor.

§ 11, c. 3, Pol. C.

**§ 80. Copies of laws for state library.** Ten volumes of the laws passed by each legislative assembly shall be placed in the state library by the secretary of state, and shall be kept therein for the use of any person visiting such library, but shall not be loaned or otherwise disposed of.

§ 17, p. 900 code  
77.

**§ 81. Conflicts adjusted.** If the provisions of any code, chapter or article, conflict with or contravene the provisions of any other code, chapter or article, the provisions of each code, chapter or article must prevail as to all matters in question arising thereunder out of the same subject matter.

§ 18, p. 900 code  
77.

**§ 82. Secretary of state authorized to arrange statutes, etc.** In the publication of codes and general statutes the secretary of state has power without altering the general plan to renumber and readjust sections, chapters, articles and subdivisions, and also to place and distribute the general statutes not now embraced in the codes in the same under the appropriate chapter or other heading.

CHAPTER 3.

EXECUTIVE DEPARTMENT.

ARTICLE 1.—THE GOVERNOR.

**§ 83. Powers and duties of governor.** In addition to those prescribed by the constitution, the governor has the power and must perform the duties prescribed in this and the following sections:

1. He is to supervise the official conduct of all executive and ministerial officers.

2. He is to see that all offices are filled, and the duties thereof performed, or in default thereof, apply such remedies as the law allows. If the remedy is imperfect, acquaint the legislative assembly therewith at its next session.

3. He is to make appointments and fill vacancies as required by law.

4. He is the sole official organ of communication between the government of this state and the government of any other state of the United States.

5. Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, he may direct the attorney general to appear on behalf of the state, and may employ such additional counsel as he may deem expedient.

6. He may require the attorney general or state's attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

7. He may require the attorney general to aid any state's attorney in the discharge of his duties.

8. He may offer rewards not exceeding one thousand dollars each, payable out of the general fund, for the apprehension of any convict who has escaped from the penitentiary, or of any person who has committed or who is charged with the commission of an offense punishable with death.

9. The duty of the governor respecting fugitives from justice is prescribed by the code of criminal procedure.

10. He must issue patents for land as prescribed by the provisions of this code.

11. He must discharge the duties of a member of the following state boards: equalization; university and school lands; trustees of public property; trustees of the deaf and dumb school; trustees of the normal schools and the state board of canvassers.

12. He has such other powers and must perform such other duties as are or may be devolved upon him by law.

**§ 84. Records in office.** The governor must cause to be kept the following records:

1. A register of all applications for pardon or for commutation of any sentence, with a list of the official signatures and recommendations in favor of each application.

2. An account of all his official expenses and disbursements including the incidental expenses of his department, and of all rewards offered by him for the apprehension of criminals and persons charged with crime.

3. A register of all appointments made by him, with date of commission, names of appointees and predecessors.

These records and the originals of all applications, petitions, recommendations and reports therein mentioned shall be preserved in the office of the governor; but whenever any application for appointment to office is refused by him, he may in his discretion return the papers relating to the application.

**§ 85. Persons acting as governor.** Every provision of the laws of this state in relation to the powers and duties of the governor, and in relation to the acts and duties to be performed by others towards him extends to the persons performing for the time being the duties of governor.

**§ 86. Salary of governor.** The annual salary of the governor, to include all services rendered ex officio as member of any board or commission, as now required or which may be by law devolved upon him, is three thousand dollars.

#### ARTICLE 2. — THE LIEUTENANT GOVERNOR.

**§ 87. Duties of lieutenant governor.** The duties of the lieutenant governor are as prescribed in the constitution.

§ 1, c. 93, 1893,  
am'd.

**§ 88. Salary of lieutenant governor.** The lieutenant governor shall receive an annual salary of one thousand dollars, and when he acts as governor, he is entitled to receive during the time he so acts the compensation which the governor, if acting, would be entitled to receive for such time; but during such time he is not entitled as lieutenant governor to any other compensation.

§ 1, c. 84, 1891.

**§ 89. President pro tem, to act as, when.** In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office or the disability of the lieutenant governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the president pro tempore of the senate; and when presiding over any meeting of the senate, all the powers and duties of the office of lieutenant governor shall devolve upon the president pro tempore of the senate.

#### ARTICLE 3. — THE SECRETARY OF STATE.

**§ 90. Custody of records.** The secretary of state is charged with the custody:

1. Of the enrolled copy of the constitution.
2. Of all the acts and resolutions passed by the legislative assembly.
3. Of the journals of the legislative assembly.
4. Of the great seal.
5. Of all books, records, deeds, parchments, maps and papers kept or deposited in his office pursuant to law.

**§ 91. Duties of secretary of state.** In addition to the duties prescribed by the constitution, it is the duty of the secretary of state:

1. To attend every session of the legislative assembly for the purpose of receiving bills and resolutions therefrom, and to perform such other duties as may devolve upon him by resolution of the two houses, or either of them.

2. To keep a register of and attest the official acts of the governor.

3. To affix the great seal with his attestation to commissions, pardons and other public instruments to which the official signature of the governor is required.

4. To record in proper books all conveyances made to the state and all articles of incorporation filed in his office.

5. To receive and record in proper books the official bonds of all state officers, from whom bonds are required by law, including his own, and then deliver the originals to the state treasurer, excepting the bond of the state treasurer, of which he shall remain the custodian.

6. To take and file in his office receipts for all books distributed by him and to direct the county auditor of each county to do the same.

7. To certify to the governor the name of any person who has received at any election the highest number of votes for any office the incumbent of which is commissioned by the governor.

8. To furnish on demand to persons paying the fees therefor a certified copy of all or any part of any law record or other instrument filed, deposited or recorded in his office.

9. To keep a fee book in which must be entered all the fees, commissions and compensation of whatever nature or kind by him earned, collected or charged, with the date, name of payor, paid or unpaid, and the nature of the services in each case, which book must be verified annually by his affidavit entered therein.

10. To file in his office descriptions of the seals in use by the different state officers, and to furnish such officers with new seals when they may be required.

11. To discharge the duties of a member of the following state boards: equalization; the state board of canvassers; trustees of public property; university and school lands; commissioners of public printing; and to perform such other duties as are now or may be hereafter prescribed by law.

12. To report to the governor at the time prescribed by law for other state officers to report all moneys received from any source for services performed and accompany such report with a detailed statement under oath of the manner in which the appropriations for his office have been expended.

13. He must distribute the bound volumes of the decisions of the supreme court as provided in section 399.

**§ 92. Distribution of laws, resolutions and journals.** Immediately after the laws, resolutions and journals of the legislative assembly are bound he shall distribute the same to the persons entitled thereto under the provisions of article 4 of chapter 2 of this code.

**§ 93. To mark books distributed.** The secretary of state must indelibly mark each book distributed to officers of this state, except members of the legislative assembly, with the name of the county to which, and the official designation of the officer to whom the same is sent, and such book shall remain the property of the state and must be by the officers receiving them delivered to their successors.

**§ 94. To receive, keep and distribute supplies.** It is the duty of the secretary of state to receive and keep the supplies and articles purchased by the commissioners of printing for the legislative assembly and state officers, and he shall distribute the same from time to time as required, on the requisition of the proper state or legislative officer, taking a receipt therefor and filing such requisition in his office. He must keep a book to be known as a book of supplies in which he must

enter a complete list of all stationery, books, articles or other supplies furnished him by such board, making a separate list of each class of articles, and all purchases made by the board, the amount and cost of each article and the amount and cost of each article furnished each officer or board and each member and officer of the legislative assembly. He must embody in his report to the legislative assembly a statement showing the amount of supplies purchased and disposed of as aforesaid.

**§ 95. Fees.** The secretary of state for services performed in his office, must charge and collect the following fees:

1. For a copy of any law, resolution, record or other document or paper on file in his office, ten cents per folio.
2. For affixing his certificate and seal to any document, one dollar; for affixing his signature and seal without a certificate, fifty cents.
3. For filing articles of incorporation of corporations for profit, five dollars; other corporations, two dollars.
4. For issuing a certificate of corporate existence, three dollars.
5. For recording official bonds, two dollars.
6. For each commission or other document signed by the governor and attested by the secretary of state, except pardons and military commissions, three dollars.
7. For each patent for land issued by the governor, if for one hundred and sixty acres or less, one dollar, and for each additional one hundred and sixty acres or fraction thereof, one dollar.
8. For searching records and archives of the state, one dollar.
9. For filing and recording notice of appointment of agent, three dollars.
10. For filing and recording notice of removal of place of business, three dollars.
11. For filing certificate of increase or decrease of capital stock, three dollars.
12. For issuing a certificate of increase or decrease of capital stock, three dollars.
13. For filing a certificate of continuance of existence of a corporation, three dollars.
14. For issuing such certificate, three dollars.
15. For recording miscellaneous records, papers or other documents, fifteen cents per folio, and for filing any paper not otherwise provided for, twenty-five cents. But no member of the legislative assembly or state or county officer can be charged for any search relative to matters appertaining to the duties of his office; nor must he be charged any fee for a certified copy of any law or resolution passed by the legislative assembly relative to his official duties. All fees must be paid in advance, and when collected must be paid into the state treasury at the end of each month and placed to the credit of the salary fund.

**§ 96. Salary of secretary of state.** The annual salary of the secretary of state, to include all services rendered ex officio as member of any boards or commission as now required, or which may be by law hereafter devolved upon him, is two thousand dollars.

**§ 97. Official bond.** The secretary of state shall give a bond to the state in the sum of ten thousand dollars.

§ 1. c. 192. 1890.  
am'd.

ARTICLE 4.—THE STATE AUDITOR.

**§ 98. Duties of.** It is the duty of the state auditor:

1. To superintend the fiscal affairs of the state.

2. To report to the governor on or before the fifteenth day of November next preceeding each regular session of the legislative assembly a statement of the funds of the state, its revenues, of the public expenditures during the two preceding fiscal years, together with a detailed estimate of the expenditures to be defrayed from the treasury for the two ensuing fiscal years, specifying therein each object of expenditure, and distinguishing between such as are provided for by permanent or temporary appropriation and such as must be provided for by a new statute, and suggesting the means from which such expenditures are to be defrayed.

3. To accompany his biennial report with tabular statements showing the amount of each appropriation for the two preceding fiscal years, the amount expended and the balance, if any; also showing the amount of revenue chargeable to each county for such years, the amount paid and the amount unpaid or due therefrom.

4. When requested, to give information in writing to either house of the legislative assembly, relating to the fiscal affairs of the state or to the administration of his office.

5. To suggest measures for the improvement and management of the public revenue.

6. To keep and state all accounts in which the state is interested.

7. To keep an account of all warrants drawn upon the treasurer, and a separate account under the head of each specific appropriation, showing at all times the unexpended balance of such appropriation.

8. To keep an account between the state and state treasurer, and charge the state treasurer therein with the balance in the treasury when he came into office and with all money received by him and credit him with all the warrants drawn on and paid by him.

9. To keep a registry of warrants showing the fund upon which they are drawn, the number, in whose favor, for what issued, the appropriation applicable to the payment thereof, when the liability accrued, and a receipt from the person to whom the warrant is delivered, and to register all orders or certificates drawn upon the state treasurer.

10. To audit all claims against the state, the payment of which is authorized by law.

11. To examine and settle the accounts of all persons indebted to the state, and certify the amount to the treasurer, and upon presentation and filing of the treasurer's receipts therefor to give such person a release, and charge the treasurer with such amount.

12. To require, in his discretion, any person presenting an account for settlement to be sworn before him, and to answer orally or in writing as to any facts relating thereto.

13. To require all persons who have received any moneys belonging to the state, and who have not accounted therefor to settle their accounts.

14. To inspect, in his discretion, the books of any person charged with the receipt, safe keeping or disbursement of public moneys.

15. To require at such times and in such forms as he may designate all persons, who have received money or securities or who have had the disposition or management of any property of the state of which an account is kept in his office, to render statements thereof to him, and all such persons must render such statements when so required by said auditor.

16. To direct and superintend the collection of all moneys due the state and institute suits in the name of the state for all official delinquencies in relation to the assessment, collection and payment of the revenue, and against persons who by any means have become possessed of public moneys or property and who fail or neglect to pay for or deliver the same, and against all persons indebted to the state.

17. To draw warrants on the state treasurer for the payment of money directed by law to be paid out of the treasury; which warrants shall be numbered consecutively in the order in which they are drawn; but no warrant must be drawn unless authorized by law, nor unless there are funds in the treasury applicable to the payment thereof to meet the same. Every warrant must be drawn upon the fund out of which it is payable, and specify for what it is drawn, and when the liability accrued.

18. To furnish the state treasurer monthly with a list of all warrants drawn upon the treasury, specifying the amount and number of each warrant and the name of the person in whose favor it is drawn.

19. To authenticate with his official seal all drafts and warrants drawn by him and all copies of papers issued from his office.

20. To discharge the duties of a member of the following state boards: equalization, state canvassers, trustees of public property, university and school lands and commissioners of public printing, and to perform such other duties as are or may be prescribed by law.

**§ 99. Special duties connected with school fund.** The state auditor must keep a separate account of the school fund and of the interest and income thereof, together with such moneys as may be raised by special tax or otherwise for school purposes. He must on or before the third Monday in February, May, August and November of each year certify to the superintendent of public instruction the amount of the state tuition fund; he shall also at the same time make a statement to such officer of the securities belonging to the school fund, of the moneys in the treasury subject to apportionment and the sources from which the same accrued, and he shall also perform such duties and draw such warrants in reference to the school fund of the state as now are or hereafter may be prescribed by law.

**§ 100. Proceedings against defaulters.** Whenever any person has received moneys or has moneys or other personal property which belongs to the state by escheat or otherwise, or has been intrusted with the collection, management or disbursement of any moneys, bonds or interest accruing therefrom, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the state auditor within the time prescribed by law, or when no particular time is specified, fails to render such account and make such settlement, or who fails to pay into the state treasury any money belonging to the state upon being required so to do by the state auditor within twenty days after such request, the state auditor must state an account with such person, charging interest at the rate of twelve per cent per annum from the time of the failure: a copy of which account shall be prima facie evidence in any suit of the things therein stated: but in case the state auditor cannot for want of information state an account, that fact may be alleged and in such case the amount of money or other property which is due or belongs to the state may be stated generally.



§ 101. **To have access to all state offices.** The state auditor shall have access to all state offices during business hours for the purpose of inspecting such books, papers and accounts therein as may concern his duties.

§ 102. **Legislative inspection of books of.** Whenever required he shall submit his books, accounts and vouchers to the inspection of the legislative assembly, or any committee thereof appointed for that purpose. § 9, c. 7, Pol. C.

§ 103. **Must transmit list of taxable lands.** He shall transmit to the county auditor of each county on or before the first day of May of each year a list of lands within such county which shall have become subject to taxation during the preceding year, agreeably to the information by him received from the land offices in the state. § 10, c. 7, Pol. C. § 9, c. 49, 1879. § 19, c. 118, 1881.

§ 104. **Transmit forms and instructions to auditors.** He shall from time to time prepare and transmit to the county auditor of each county such general forms and instructions in conformity with the laws in force, as, in his opinion, may be necessary to secure uniformity in levying, charging, collecting and accounting for the public revenue; and assessors and treasurers shall observe such forms and instructions. § 11, c. 7, Pol. C.

§ 105. **May remit tax penalties.** The auditor is authorized to remit any penalty for the non-payment of taxes when satisfied that the same is improperly charged, or that such penalty occurred in consequence of the negligence or error of any officer required to do any duty relative to the levy and collection of such taxes; and may from time to time correct all errors which he shall discover in the taxes assessed in any county. § 12, c. 7, Pol. C.

§ 106. **Salary of.** The annual salary of the state auditor, to include all services rendered as member of any board or commission as now required, or which may be by law hereafter devolved upon him, is two thousand dollars, and all fees received by him shall be paid into the state treasury at the end of each month.

§ 107. **Official bond.** The state auditor must execute an official bond in the sum of twenty thousand dollars.

ARTICLE 5.—THE STATE TREASURER.

§ 108. **Duties of.** It is the duty of the state treasurer:

1. To receive and keep all moneys belonging to the state, and not required to be received and kept by some other person.

2. To register the orders or certificates of the state auditor, delivered to him when moneys are paid or to be paid into the treasury.

3. To deliver to each person paying money into the treasury and to the state auditor a duplicate receipt showing the amount, the source from which the money accrued and the funds into which it is paid, which receipts must be numbered in order, beginning with number one at the commencement of each fiscal year.

4. To pay warrants drawn by the state auditor out of the funds upon which they are drawn and in the order in which they are presented.

5. Upon the payment of any warrant to take upon the back thereof the receipt of the person to whom it is paid, and file and preserve the same.

6. To keep an account of all moneys received and disbursed.

7. To keep separate accounts of the different funds. He shall receive in payment for public dues the warrants drawn by the state

auditor in conformity with law, or redeem the same, if there is money in the treasury appropriated for that purpose, and on redeeming such warrant or receiving the same in payment he shall cause the person presenting such warrant to indorse the same, and the treasurer shall write on the face thereof "Redeemed," and shall enter in his book in separate columns the number of such warrant, its date, amount, and the name of the person to whom payable, the date of payment and the amount of interest, if any, paid thereon.

8. To report to the state auditor on the last day of each month the amount disbursed for the redemption of bonds, and any payment of warrants during the month, which report must show the date and number of such bonds and warrants, the funds out of which they were paid and the balance in cash on hand in the treasury to the credit of each fund.

9. At the request of either house of the legislative assembly or of any committee thereof, to give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office.

10. To report to the governor on or before the fifteenth day of November next preceding each regular session of the legislative assembly the exact balance in the treasury to the credit of the state with a summary of the receipts and payments of the treasurer during the two preceding fiscal years; and to make a semi-annual report to the governor of all moneys received from all sources, and all moneys disbursed, and for services performed by him, which report must be made under oath.

11. To authenticate with his official seal all writings and papers issued from his office.

§ 1, c. 96, 1893. 12. To discharge the duties of a member of the board of state canvassers and of the board of commissioners of public printing, and to perform such other duties as are or may be prescribed by law.

§ 2, c. 96, 1893.  
am'd. 13. To keep a book in which he must enter all warrants paid, giving the names of the owners, and the number and amounts of the warrants.

§ 3, c. 96, 1893.  
am'd. 14. To keep all moneys belonging to the state in his own possession until disbursed according to law. But nothing in this subdivision prohibits him from making special deposits for the safe keeping of public moneys.

§ 4, c. 96, 1893. 15. To post at the door upon the outside of his office a list of all warrants that he may have funds in the treasury to redeem or pay, the payment of which has not been demanded during the preceding six months.

§ 5, c. 96, 1893. 16. To keep his books open at all times for the inspection of the governor, the state auditor, the public examiner and any committee appointed to examine them by either house of the legislative assembly.

§ 7, c. 96, 1893. 17. To report semi-annually to the governor in writing and under oath the amount of all moneys in his hands to the credit of each fund, and the place where the same is deposited, and the number and amount of every warrant paid or redeemed by him during the preceding six months. The governor must verify said report, and cause the same to be immediately published in at least one daily paper printed at the seat of government.

§ 8, c. 96, 1893. **§ 109. Examination. Suspension of treasurer.** If the state examiner upon examination finds that the books of the state treasurer do not correspond with the amount of funds on hand, or do not

show the actual condition of the funds, or if it appears to the state examiner that any moneys belonging to the state have been embezzled, diverted or in any manner taken from the treasury without authority of law, or that the state treasurer has been guilty of negligence in keeping his books or taking care of the public moneys, he must certify the fact to the governor; who upon the receipt of such certificate must forthwith take possession of all books, moneys, papers and other property belonging to the state, which have come into the possession of such state treasurer by virtue of his office, or otherwise, and must temporarily suspend him from his office of state treasurer.

**§ 110. Suspension and appointment by governor.** The governor must thereupon, with the auditor and public examiner, examine the books, papers and all matters connected with the office of the state treasurer, so suspended, and if it appears to the said governor, state auditor and state examiner on such examination, that such state treasurer has embezzled or converted to his own use the public moneys, or has been negligent in keeping his books, or in taking care of public moneys, the governor on the certificate of said state auditor and said state examiner to that effect may in his discretion remove and appoint another person to fill the place of said suspended state treasurer, and such person so appointed must execute an official bond and enter upon the office of state treasurer as provided by law. The governor must report all his acts done under this and the next preceding section to the next succeeding legislative assembly, and the state treasurer so appointed holds his office until the suspended state treasurer is reinstated, or his successor is elected and qualified. § 9, c. 96, 1893.

**§ 111. Redeemed warrants deposited with auditor.** He shall on the last day of March, June, September and November deposit in the office of the state auditor all warrants by him redeemed or received in payment at the treasury, and take the auditor's receipt therefor. § 7, c. 8, Pol. C.  
§ 11, c. 183, 1890.

**§ 112. Prohibited from purchasing warrants or accounts.** He shall in no case purchase or receive any warrants redeemable at the treasury or any audited account at a less value than is expressed therein; nor shall he receive any fees or reward, aside from his annual salary, for transacting any business connected with the duties of his office. § 10, c. 8, Pol. C.

**§ 113. Delinquencies, accountable for.** If in any instance the treasurer shall neglect to call to account any delinquent, whereby the public revenue may suffer a loss, he shall be held and deemed accountable for the sums due by such delinquents to all intents and purposes the same as if the funds had actually been paid into his office. § 12, c. 8, Pol. C.

**§ 114. To register state bonds.** The state treasurer upon presentation to him of any bond issued by, or assumed by the state of North Dakota, and upon application to him in writing by the owner of such bond for the registration thereof shall register such bond (first detaching and canceling all unmatured coupons, in case such bond is a coupon bond), in the name of the said owner in a book which he shall keep for that purpose; and after such registration of ownership as aforesaid, duly indorsed by the treasurer upon the bond so registered, no transfer of ownership of such bond shall be deemed valid unless registration of such transfer shall have been made by the state treasurer as aforesaid; and such bond shall continue subject to registration and to transfer at the option of the owner. § 1, c. 38, 1891.  
am'd.

- § 2, c. 38, 1891.  
am'd.     **§ 115. Registration vests ownership.** The registration of bonds, as provided for in the last section, shall vest the ownership thereof, both principal and interest, in the person in whose name the last registration is made; and the state treasurer shall remit in current exchange on New York City to the person in whose name the last registration is made the interest on such bonds as it from time to time becomes due, and the principal thereof at maturity.
- § 3, c. 38, 1891.     **§ 116. Fee for registry.** For each registration of ownership or transfer of ownership made as herein provided the treasurer shall be entitled to receive a fee of fifty cents for each bond so registered; provided, that all fees so received shall be covered into the general fund of the state.
- § 117. Salary of.** The annual salary of the state treasurer, to include all services rendered ex officio as member of any board or commission as now required, or which may hereafter be required of him by law, is two thousand dollars.
- § 10, c. 96, 1893.     **§ 118. Official bond.** The state treasurer must execute an official bond in the sum of two hundred and fifty thousand dollars.

#### ARTICLE 6. — THE ATTORNEY GENERAL.

- § 4, c. 21, 1890.     **§ 119. Duties of.** The duties of the attorney general shall be:
1. To appear for and represent the state before the supreme court in all cases in which the state is interested as a party.
  2. To institute and prosecute all actions and proceedings in favor of or for the use of the state, which may be necessary in the execution of the duties of any state officer.
  3. To appear and defend all actions and proceedings against any state officer in his official capacity in any of the courts of this state or of the United States.
  4. To consult with and advise the several state's attorneys in matters relating to the duties of their office; and when in his judgment the interests of the state require it, he shall attend the trial of any party accused of crime and assist in the prosecution.
  5. To consult with and advise the governor and all other state officers, and give, when requested, written opinions upon all legal or constitutional questions relating to the duties of such officers respectively.
  6. To prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.
  7. To give written opinions, when requested by either branch of the legislative assembly, upon legal questions.
  8. To enforce the proper application of funds appropriated to the public institutions of the state, prosecute breaches of trust in the administration of such funds, and when necessary prosecute corporations for failure or refusal to make the reports required by law.
  9. To keep in proper books a register of all cases prosecuted or defended by him in behalf of this state or its officers, and of all proceedings had in relation thereto, and to deliver the same to his successor in office.
  10. To keep in his office a book in which he shall record all the official opinions given by him during his term of office, which book shall be by him delivered to his successor in office.
  11. To pay into the state treasury all moneys received by him for the use of the state.

12. To attend to and perform any other duties which may from time to time be required by law.

§ 120. **Annual report of.** He shall make an annual report to the governor on or before the fifteenth day of November, stating the number, character, condition and result of the actions prosecuted or defended by him in behalf of the state, the cost of prosecuting or defending each action and the amount of fines and penalties collected. § 5, c. 21, 1890.

He shall also direct attention to any defect in the practical operations of the laws relating to revenue and criminal offenses, and suggest such amendments as in his judgment are necessary to subserve the public interests.

§ 121. **Salary of.** The annual salary of the attorney general, to include all services rendered ex officio as member of any board or commission as now required, or which may hereafter be devolved upon him by law, is two thousand dollars. And in addition thereto he shall be paid all his necessary expenses in attending court upon official business, to be audited and paid as provided by law in other cases.

§ 122. **Assistant, how appointed.** The attorney general may appoint an assistant, whose appointment shall be in writing and filed in the office of the secretary of state. Such assistant attorney general shall have the same powers and authority as the attorney general. He shall before entering on the duties of his office take and subscribe upon his appointment the official oath prescribed by law. § 1, c. 17, 1889. am'd.

#### ARTICLE 7. — THE COMMISSIONER OF AGRICULTURE AND LABOR.

§ 123. **Duties of.** It shall be the duty of the commissioner of agriculture and labor to collect, systematize and present in biennial reports to the legislative assembly statistical details relating to all departments of labor in the state, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the estimated number of persons employed by the several industries within the state, the operation of labor saving machinery and its relation to hand labor, a description of the different kinds of labor organizations in existence in this state and what they have accomplished in favor of the class for which they were organized. Such statistics may be classified as the commissioner of agriculture and labor deems best. § 1, c. 46, 1890.

§ 124. **Duty of all officials to furnish certain information. Penalty.** It shall be the duty of all state, county, township and municipal officers to furnish upon the written request of the commissioner of agriculture all the information in their power necessary to assist in carrying out the objects of this article. For the purpose of obtaining statistics relating to manufactures and mining the commissioner of agriculture shall procure in a manner that may seem best to him, the names and addresses of all the manufacturers and mine owners and operators in the state, and shall transmit by mail to each owner, operator or manager of each shop, mill, manufacturing establishment or mine, not later than the first day of July of each year, suitably prepared blanks, embodying inquiries into the subjects upon which the commissioner is required or authorized to prepare statistics, which blanks shall be filled out complete and returned to the commissioner not later than the first day of August following. The information so obtained shall be preserved, systematized and tabulated by the com- § 2, c. 46, 1890. § 1, c. 115, 1891.

missioner, but no information concerning the business or affairs of any individual, firm, company or corporation shall be divulged or in any manner made public by the commissioner or any one in the employ of his office, and any violation of this provision shall subject the party violating to a fine of not more than five hundred dollars or to imprisonment of not more than one year, or both such fine and imprisonment. The refusal or neglect of any such owner, operator or manager of any shop, mill, manufacturing establishment or mine to supply the information asked by the commissioner within the time designated shall be construed as a violation of the following section and shall subject the party so offending to the penalties therein prescribed; provided, that no prosecution shall be begun against such persons for such neglect or refusal until at least twenty days after a second notice and blank shall have been mailed them by the commissioner.

§ 3, c. 46, 1890.  
§ 2, c. 115, 1891.

**§ 125. Penalty for obstructing commissioner.** Any person who willfully impedes or obstructs the commissioner in the full and free performance of his duties shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than ten nor more than fifty dollars, or by imprisonment of not less than seven nor more than thirty days in the county jail, or by both. The refusal or neglect of any person for himself or for any person, firm, company or corporation of which he may be a member, or agent, to furnish the information or statistical statement required to be furnished to assessors, shall be construed to be a violation of the provisions of this section, and it is hereby made the duty of the county auditor to report such violation with the names and post office address and place of residence of the violator as furnished him by the assessor to the state's attorney for the county in which such violations occurred, and the state's attorney shall forthwith proceed to enforce the penalty provided in this section against such persons: and he is hereby authorized to subpoena the assessor and such other witnesses as may be necessary, and to introduce the assessor's returns in evidence.

§ 5, c. 46, 1890.

**§ 126. Power to send for persons, books and papers.** He shall have power to send for persons, books and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby authorized to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in his office.

§ 8, c. 46, 1890.

**§ 127. Duty to promote immigration.** He shall look after and devise means to advance the immigration interests of the state, and to encourage and promote the permanent settlement and improvement of all sections of the state. He shall have charge of the preparation in manuscript, the publication and distribution by mail and otherwise of any and all documents and articles of reading matter designed to convey correct and full information on all matters pertaining to the growth and development of the agricultural, manufacturing, commercial and mining interests of the state. He shall attend to all correspondence relating to immigration and shall do all in his power by letter, by the use of published printed matter and through personal effort to secure the most liberal and extensive advertisement of the resources and opportunities of the state. It shall be his aim to induce the investment of capital in agriculture, in mining and in different industrial and mercantile pursuits, and to facilitate the coming to the state of persons and families seeking permanent location

for new homes. He shall procure the most favorable rates of fare obtainable from railroads and other transportation companies for persons coming to the state, and where such persons have formed a colony or party of considerable number, he shall be required to visit them, if necessary, and do all in his power to direct and assist them in making the necessary arrangements for transportation and in reaching the state.

**§ 128. Have charge of public exhibits.** He shall have charge of any exhibit of the products and resources of the state which may be made at any fair or exposition held at any point in the United States, and shall have authority to co-operate with any railroad company doing business within the state, and with any other persons interested with a view of securing such an exhibit at any fair or exposition held as aforesaid. § 9, c. 46, 1890.

**§ 129. State statistician.** The commissioner of agriculture shall be the state's statistician; it shall be his duty to obtain from assessors and other officers of the organized counties of the state, and to collate and prepare in tabulated form for reference statistics showing county, township and other municipal indebtedness of all kinds, the assessed valuation of real and personal property, and he shall also ascertain the amount of mortgage indebtedness and assessed value of real property owned by citizens as distinguished from corporations, the acreage in wheat, corn and other kinds of grain, the number of cattle, horses, hogs and other live stock, and the population, vital statistics and other information pertaining to and showing the condition of the growth and development of the state by counties. The commissioner of agriculture and labor may call upon the attorney general for such assistance as to him may seem necessary in the preparation of such blanks as may be needed for procuring the statistics contemplated in this act, and it is the duty of the attorney general to render such assistance. § 10, c. 46, 1890.  
§ 3, c. 115, 1891.

**§ 130. Reports of commissioner. When portions may be given out.** The commissioner shall report to the legislative assembly the number of coal mines being operated within the state, the number of tons of coal being mined annually, the number of persons employed in coal mining, the wages paid coal miners and the cost per ton to mine coal at the different mines. The commissioner is hereby authorized to give out to the press of this or other states at any time such parts of any reports in course of preparation as may be sufficiently concluded to admit of publication, or such information regarding the statistics of the state as may in his judgment be of interest or value to the people, the design being to furnish to the people through the press as fresh information regarding the state and its industries and condition as possible without awaiting the official publication through biennial or other reports. § 11, c. 46, 1890.  
§ 4, c. 115, 1891.

**§ 131. Salary of.** The commissioner of agriculture and labor shall receive an annual salary of two thousand dollars. § 1, c. 47, 1890.  
am'd.

#### ARTICLE 8. — THE COMMISSIONER OF INSURANCE.

**§ 132. Duties of.** It is the duty of the commissioner of insurance:

1. To see that all laws of this state respecting insurance companies are faithfully executed.
2. To file in his office the articles of incorporation of all insurance companies organized or doing business in this state, and on application to furnish a certified copy thereof.

3. To report in detail to the attorney general any violation of law relative to insurance companies, their officers or agents.

4. To furnish to insurance companies required to make reports to him the necessary blank forms for the statements required.

5. To preserve in permanent form a full record of his proceedings and a concise statement of each company or agency visited or examined.

6. To furnish at the request of any person and on payment of his fees certified copies of any record or paper in his office, when he deems it not prejudicial to the public interests so to do, and to give such other certificates as may be provided by law.

7. To furnish a written report to the governor on or before the fifteenth day of November of each year showing his official acts, the receipts and expenditures of his department during the preceding fiscal year, the condition of the companies doing business in this state and such other information as will exhibit the affairs of his department; which report shall be printed, to the number of five hundred, at the expense of the state, and distributed among the members of the succeeding legislative assembly, and otherwise as provided by law. Such report must contain only an abstract of the reports of insurance companies.

8. To send a copy of his annual report to the insurance commissioner, or other similar officer, of every other state and to each company doing business in this state.

9. To communicate on request to the insurance commissioner of any other state any facts which by law it is his duty to ascertain respecting companies of this state doing business within such state.

10. To have an official seal and to employ competent clerks, such clerks to discharge such duties as he may assign, and in case of his sickness or temporary absence from office, his chief clerk shall have authority to sign his name and perform such other duties as are required by law pertaining to the duties of such commissioner of insurance.

**§ 133. Fees.** The commissioner of insurance shall charge and collect such fees as are prescribed in chapter 14 of the civil code.

**§ 134. Salary.** The annual salary of the commissioner of insurance, to include all services performed by him, is two thousand dollars.

**§ 135. When commissioner disqualified, state examiner to act.** In case the commissioner of insurance is a director, officer, agent, attorney, a stockholder of or directly interested in any insurance company except as an insured, the examination of such company shall be made by the state examiner, or by some person appointed by him; and no officer or agent of any insurance company doing business in this state shall be deputed to examine the affairs of such company.

#### ARTICLE 9. — THE STATE EXAMINER.

§ 1, c. 95, 1893.

**§ 136. Appointment. Term of Office. Qualifications.** There shall be a state examiner who shall be appointed by the governor and confirmed by the senate, who shall hold his office for the term of two years, and until his successor has been appointed and qualified, unless sooner removed as herein provided. The state examiner shall be a skilled accountant, an expert in the theory and practice of book-keeping, and shall not be an incumbent of any public office in the state, or of any county, municipality or public institution therein,



and shall not own, hold or control any stocks, capital or bonds, or the office of trustee, assignee, officer or employee of any banking, annuity, safe deposit, trust company, moneyed or savings institution or corporation created under the laws thereof. In case of vacancy or death, removal, resignation or otherwise, the governor shall fill the same by appointment. The governor is authorized to remove from office any state examiner who violates, or fails faithfully to discharge the duties of his office, and to appoint his successor who shall hold office until the end of the next legislative assembly, unless sooner removed as above provided.

**§ 137. Duty to examine accounts of public officers.** The duties of the state examiner are to examine at least once every year the books and accounts of the secretary of state, state auditor, state treasurer, clerk of the supreme court, commissioner of insurance, county treasurer, county auditor and other county officers of any county, upon request by the board of county commissioners. § 2, c. 95, 1893.

**§ 138. Duty to supervise accounts of public institutions.** It shall be the duty of the state examiner to assume and exercise constant supervision over the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions belonging to the state; to prescribe and enforce correct methods of keeping financial accounts of the state institutions by himself or duly appointed deputy, and instruct the proper officer thereof in the due performance of his duty concerning the same; to examine the books and accounts of all public institutions under the control of the state, and of all private institutions with which the state has any dealing, so far only as the same relates to such dealing, once in six months. § 3, c. 95, 1893.

**§ 139. Additional duties.** It shall be his duty to order and enforce a correct and, as far as practicable, uniform system of book-keeping by state and county treasurers and auditors so as to afford a suitable check upon their mutual actions and insure a thorough supervision and the safety of the state and county funds. He shall have full authority to expose false and erroneous systems of accounting, and when necessary instruct or cause to be instructed the state and county officers in the proper mode of keeping the accounts. It shall be the duty of the state examiner to ascertain the character and financial standing of all present and proposed bondsmen of state and county officers. He shall require county treasurers as often as he shall deem necessary to make verified statements of their accounts, and he shall personally, or by deputy, visit said offices without previous notice to such treasurers, at irregular periods, of at least once a year, or when requested by any board of county commissioners, and make a thorough examination of the books, accounts and vouchers of such officers, ascertaining in detail the various items of receipts and expenditures; and it shall be his duty to inspect and verify the character and amounts of any and all assets and securities held by said officers on public account, and to ascertain the character and amount of any commissions, percentages or charges for services exacted by such officer without warrant of law. He shall report to the attorney general the refusal or neglect of any state or county officer to obey his instructions, and it shall be the duty of said attorney general promptly to take action to enforce compliance herewith. He shall report to the governor the result of his examination, which shall be filed in the executive office, as well as any failure of duty by any financial officers as often as he thinks required by the public interest, § 4, c. 95, 1893.

and the governor may cause the result of such examination to be published, or at his discretion to take such action for the public securities as the exigencies demand, and if in his opinion the public interest requires it, he may suspend any such officer from further performance of duty, until examination is had, or such security obtained as may be demanded for the protection of the public funds.

§ 5. c. 95, 1893. **§ 140. Fiscal affairs of counties.** It shall be his duty at the request of the county commissioners of any county in this state to examine and audit, compare and correct any books, records, papers, securities or other documents necessary to be had in any pending settlement of the fiscal affairs, or any necessary correction of the records of any county in this state. He shall have free access to all books, papers, records or other documents of any county in the state, found or deemed to be necessary, and is hereby empowered to take the records of any one county in this state to any other county in this state, when in his judgment it is deemed necessary, to compare and correct the same. And all county officers in this state are hereby required and enjoined to assist said state examiner in the discharge of his duties in all things which he may require of them as such county officer.

§ 6. c. 95, 1893. **§ 141. Examination of banks.** It shall be his duty to visit once in each year without previous notice each of the banks, banking corporations and savings banks incorporated under the laws of this state, insurance, annuity, safe deposit, loan or trust companies and other moneyed corporations and thoroughly examine into their affairs and ascertain their financial condition. It shall be the duty of such examiner to inspect carefully and verify the validity and amount of the securities held by such institutions, examine into the validity of the mortgages held by savings institutions, and see that the same are duly recorded, and ascertain the amount of any discount or other banking transaction which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into and report any neglect or infringement of the laws governing such banking, annuity, safe deposit, trust companies, moneyed and savings institutions, and for such purposes shall have power to examine the officers, agents and employees thereof and all persons doing business therewith. He shall forthwith report the condition of such corporation so ascertained to the governor, together with his recommendations or suggestions respecting the same, and the governor may cause the same to be published, or in his discretion take such action as the exigencies may seem to demand.

§ 7. c. 95, 1893. **§ 142. Public officers to aid examiner.** All officers of the state and counties of the state and all officers and employees of banking and other institutions mentioned in this act must afford all reasonable facilities for the investigations provided for in this act, and all such officers, managers and employees must make return and exhibit to the examiner under oath in such form and in such manner as he may prescribe, and each and every person so required who shall refuse and neglect to make such return or exhibit, or to make or to give such information as may be required by said examiner, shall be deemed guilty of felony; and if any person in making such exhibit or giving such information or affording any statement required under this act, on his oath, shall knowingly swear falsely concerning the same, he shall be deemed guilty of perjury and punished accordingly.

**§ 143. Obstruction of examiner. Penalty.** Every person who shall willfully obstruct or mislead the state examiner in the execution of his duties as hereby prescribed shall be subject to conviction and punishment therefor in the same manner as is now provided for the conviction and punishment of persons obstructing or hindering any officers, ministerial, judicial, or executive under the laws and authority of this state. And said examiner shall have full power and authority for the various purposes named to examine any books, papers, accounts, bills, vouchers and other documents, or property of any or all of the aforesaid state institutions, moneyed, banking, insurance, annuity, safe deposit, trust company and moneyed or insurance corporations and county or state officers and custodians of any county or state fund; also to examine under oath any or all trustees, managers, officers, or employees or agents of said institution and moneyed and savings corporations and other persons in the control of or doing business with said moneyed or savings institutions, and the county and state officers and custodians of county and state funds aforesaid. Said examiner is empowered to issue subpoenas and administer oaths in the performance of his duties, and any person refusing access by said examiner to any such books or papers, or any trustee, manager, officer, agent, clerk, employee, or other person aforesaid, who shall obstruct such access or refuse to furnish any required information, or who shall in any manner hinder a thorough examination required by this article of the officers, state, moneyed, banking, insurance, annuity, safe deposit, trust companies and savings institutions, or pertaining to the county and state officers aforesaid, shall be deemed guilty of felony and shall be liable on conviction to a fine of one thousand dollars or imprisonment in the penitentiary for the term of one year. And when necessary, the state examiner shall employ stenographers or clerical help, the expense incurred therefor to be collected by the examiner from the county or corporation in interest. § 8, c. 95, 1893.

**§ 144. Reports, contents of.** The state examiner shall report to the governor the result of his examinations on the first Monday in November of each year; he must also make a report upon any particular matter at any time when required by the governor, and shall embody in such report an abstract of the condition and statistics of the several state institutions and the county and state finances ascertained by him, which report shall be printed to the number of five hundred copies and shall be included with other official reports in the volume of executive documents. The state examiner shall perform such other duties as shall be prescribed by law. § 9, c. 95, 1893.

**§ 145. Salary. Deputy. Penalty for malfeasance.** The salary of the state examiner for all services rendered in any capacity whatever shall be two thousand dollars per year and his actual and necessary expenses incurred in the discharge of his official duty. He is authorized with the approval of the governor to appoint a deputy who shall receive an annual salary of eighteen hundred dollars and his actual and necessary expenses. The salary and expenses of the state examiner and his deputy shall be audited and paid in the same manner as the salary and expenses of other state officers. § 10, c. 95, 1893.

**§ 146. Official bond.** The state examiner must execute an official bond in the sum of ten thousand dollars. § 11, c. 95, 1893.

## ARTICLE 10.—THE STATE WEATHER BUREAU.

- § 1, c. 127, 1893.   **§ 147. Establishment of service.** There is hereby established in this state a weather and crop service, co-operating with the weather bureau of the United States, for the purpose of selecting crop statistics and meteorological data, and more widely disseminating the weather forecast and storm and frost warning, and to promote a general knowledge of meteorological science and the climatology of the state.
- § 2, c. 127, 1893.   **§ 148. Central station at seat of government.** The central station of said weather and crop service shall be at the seat of government under the charge of a director, such director to be an official of the United States weather bureau, who may be designated for that purpose by the chief of the weather bureau at Washington, D. C.
- § 3, c. 127, 1893.   **§ 149. Director to establish volunteer stations. Monthly reports.** Said director shall establish such volunteer stations throughout the state as he may deem advisable, and shall appoint observers thereat. He shall supervise such volunteer stations, receive reports therefrom of meteorological events and crop conditions, tabulate the same for permanent record, and issue for free distribution a weekly weather crop bulletin during the seasons from April first to October fifteenth, and he shall also edit and cause to be published for free distribution a monthly weather report, containing meteorological and agricultural matter of public interest and educational value; provided, however, that not more than five hundred copies of said report shall be published each month.
- § 5, c. 127, 1893.   **§ 150. Annual report to governor.** Said director shall also compile an annual report, addressed to the governor, to be printed and bound in such numbers as the commissioners of public printing may direct; such reports to contain a complete review and summary of the results of the year's labors and observations.
- § 6, c. 127, 1893.  
§ 1, c. 20, 1895.   **§ 151. Appropriation, how expended.** There is appropriated out of any funds in the state treasury not otherwise appropriated, or as much thereof as may be necessary, the sum of five hundred dollars annually for expenses of such weather and crop service. Such appropriation to be expended upon the order of the director, subject to the approval of the governor.

## ARTICLE 11.—THE STATE HISTORICAL COMMISSION.

- § 1, c. 70, 1895.   **§ 152. How constituted.** The governor, auditor, secretary of state, commissioner of agriculture, William H. Moorhead and the president of the North Dakota historical society shall constitute an historical commission for the state of North Dakota.
- § 2, c. 70, 1895.   **§ 153. Duties.** It shall be the duty of this commission to collect and preserve the records and relics pertaining to the early history, early settlement and development of North Dakota. It shall collect, arrange and preserve a library of books, pamphlets, papers, manuscripts, photographs, paintings, sketches, cabinets of minerals, Indian archeological and other curiosities and material illustrative of the civil, political, religious, literary and natural history of the state. It may receive bequests for the purposes of this act, and shall expend the same for the purchase of historical, genealogical and other books and collections suitable for this purpose, and may receive contributions from societies, corporations and individuals of books, pamphlets, papers and other matter herein contemplated, and shall faithfully

preserve or apply the same for the purposes herein stated. They shall provide a room in the capitol for the safe keeping and arrangement of the records and collections of this commission and the North Dakota historical society when co-operating with it.

CHAPTER 4.

PUBLIC BOARDS.

ARTICLE 1. BOARD OF TRUSTEES OF PUBLIC PROPERTY.

§ 154. Board, of whom composed. The governor, secretary of state and state auditor are constituted a board of trustees of public property, and such board shall have charge and control of the capitol, the executive mansion and the park and public grounds connected therewith. § 1, c. 162, 1887. am'd.

§ 155. Board to report estimates to legislative assembly. Such board shall, at the opening of each session of the legislative assembly, report to it an estimate of the appropriation necessary to defray the expenses of keeping the capitol building, executive mansion and public grounds in repair, and for fuel and other incidental expenses for keeping and maintaining the state offices for the ensuing two years. § 2, c. 162, 1887. am'd.

ARTICLE 2. — BOARD OF AGRICULTURE.

§ 156. Board, how created. There is hereby created a department of agriculture for the promotion of stock breeding, agriculture and horticulture, manufactures and domestic arts, which department shall be managed by a board styled "State Board of Agriculture," to consist of one person from each judicial district in the state, who shall be appointed by the governor by and with the advice and consent of the senate, and who shall hold his office for two years, commencing on the first Tuesday of April next succeeding his appointment, and until his successor is appointed and qualified. All vacancies occurring therein, except when the legislative assembly is in session, shall be filled by the governor, and the person so appointed to fill a vacancy shall hold office during the remainder of the unexpired term and until his successor is appointed and qualified. § 1, c. 24, 1890. am'd.

§ 157. Use of land conveyed to the state. The real property near the city of Grand Forks heretofore conveyed to the state under the provisions of chapter 24 of the laws of 1890 shall be held by the state for the following purposes and no other, viz: For the purpose of exhibiting thereon under the management of the state board of agriculture, or its successors, annually, the agricultural, stock-breeding, horticultural, mining, mechanical, industrial and other pursuits and resources of the state including exhibits of the arts and educational progress. § 2, c. 24, 1890. am'd.

§ 158. Annual exhibits. There shall be annually held, under the direction of the state board of agriculture, upon the premises so conveyed, at such time as the board may determine, an exposition for the purposes specified in the last section, and such board is empowered to invite the co-operation of any other state, territory or country in such exposition. § 3, c. 24, 1890. am'd.

- § 4, c. 24, 1890.  
am'd.      **§ 159. Board of control.** The custody and control of such premises, together with adjoining property which may be added thereto, is vested in the state board of agriculture, and the general office of such board wherein shall be kept the property and records of said board, may be located and maintained upon such premises or in the city of Grand Forks.
- § 4, c. 24, 1890.  
am'd.      **§ 160. Rules to be adopted by board.** Such board is authorized and empowered to make any and all regulations, rules and provisions, not inconsistent with law, which shall in its judgment be necessary or proper for the government, management and control of such premises, and all expositions to be held thereon, and all such needful rules and regulations concerning the government and deportment of the public thereon as it may deem requisite and proper.
- § 5, c. 24, 1890.      **§ 161. Premiums.** Any and all moneys expended by such board for premiums or exhibits or other displays, or which may hereafter be appropriated by the state for such purposes, shall be expended only for such expositions and displays as shall be held by such board upon the premises aforesaid.
- § 7, c. 24, 1890.      **§ 162. Meetings of board. Officers.** The board shall meet annually at its office on the second Tuesday of March. At such meeting it shall elect from its own number a president and vice president of the board who shall serve until the next annual election.
- § 8, c. 24, 1890.      **§ 163. Secretary, duties of.** The board shall, at its annual meeting, appoint some person, not a member of the board, secretary thereof and shall fix his compensation, which shall not exceed two hundred dollars per annum, and he shall hold his office during the pleasure of the board. He shall perform all such duties as usually pertain to the office of secretary or as shall be required of him by such board.
- § 9, c. 24, 1890.      **§ 164. Treasurer, duties of.** The board shall also appoint at its annual meeting some person not a member of the board, treasurer thereof and fix his compensation, which shall not exceed one hundred dollars per annum. He shall give a bond in such sum and with such surety as the board shall require or direct, which bond shall be conditioned for the faithful discharge of the duties of his office. He shall keep an accurate itemized account of all moneys received by him as such treasurer, and also of all moneys paid out, and shall make an annual report of all such receipts and expenditures to the board at its annual meeting, or oftener if required by the board.
- § 10, c. 24, 1890.      **§ 165. Special police, how appointed.** The board, at or before the time of holding its annual fair, may appoint as many persons to act as police, as it may deem requisite to insure good order on or about the grounds where such fair is held. Each of such persons before entering upon his duties shall receive his authority from and take the oath of office before a judge or justice of the peace, and shall receive from such judge or justice of the peace a certificate of appointment, which shall be indicated by some appropriate badge of office, and when so appointed they shall be clothed with full police powers.
- § 12, c. 24, 1890.      **§ 166. Powers of board. State not liable for debts.** The state board of agriculture may in its name contract and be contracted with, purchase, hold or sell property and sue or be sued; but the state shall not be liable for any debt or contract of such board.
- § 14, c. 24, 18' 0.      **§ 167. Compensation of officers.** The officers and members of the board, except the secretary and treasurer, shall serve without

pay, but shall receive mileage at the rate of ten cents per mile one way, from their home to the place of meeting of the board, which when certified by the president of the board shall be audited by the state auditor and paid by the state treasurer.

§ 168. **Board to make annual reports.** The state board of agriculture shall make an annual report to the governor on or before the fifteenth day of November, which report shall contain a full and complete statement of the acts of the board, and the board may append to and publish with its report, such essays upon agriculture, horticulture, manufacturing and the domestic arts, as, in the judgment of the board, the interests of the state require. Such report shall not contain more than five hundred printed pages, and one thousand copies thereof shall be printed and published annually in pamphlet form by the public printer of the state at contract rates.

§ 15, 1c, c. 24,  
1890.  
am'd.

### ARTICLE 3.—BOARD OF UNIVERSITY AND SCHOOL LANDS.

§ 169. **Board, how constituted.** The governor, secretary of state, state auditor, attorney general and superintendent of public instruction shall constitute the board of university and school lands. The governor shall be president; the secretary of state, vice president and the superintendent of public instruction, secretary thereof. In the absence of the superintendent of public instruction at any meeting of the board the deputy superintendent of public instruction shall act as secretary, but shall not be entitled to a vote. Such board, when acting as such, must act personally; no member can be represented on such board by any assistant or clerk.

§ 2, c. 118, 1893.  
am'd.

§ 170. **Board, powers of.** Subject to the provisions of article 9 of the constitution and the provisions of this article, such board shall have the full control of the selecting, appraisalment, rental, sale, disposal and management of all school and public lands of the state, including the real property donated to the territory of Dakota under the provisions of chapter 104 of the laws of 1883, except such as has been sold, and the investment of the permanent funds derived from the sale thereof, or from any other source, and shall have power to appoint a competent person to act as the general agent of the board in the performance of all its duties pertaining to the selection, sale, leasing or contracting in any manner allowed by law, and the general control and management of all matters relating to the care and disposition of the public lands of the state, all of whose official acts shall be subject to the approval and supervision of the board. The title of such agent shall be commissioner of university and school lands, and before entering upon his duties as such he shall take the oath prescribed for civil officers and give a bond in the penal sum of ten thousand dollars, with not less than two sureties, to be approved by the board, and recorded in the office of the secretary of state and filed, when recorded, in the office of the state treasurer.

§ 3, c. 118, 1893.

§ 171. **Meetings of board.** Such board shall meet at the office of the commissioner on the last Thursday of each month, at ten o'clock in the forenoon. Special meetings of the board may be held at any time at the written call of the president or any two members of the board. Any three members of the board shall constitute a quorum.

§ 4, c. 118, 1893.

§ 172. **Board to invest school funds, how.** Such board shall have the power and it is made its duty from time to time to invest

§ 5, c. 118, 1893.

any money belonging to any of the permanent funds of the common schools, university, school of mines, reform school, agricultural college and deaf and dumb asylum, normal schools, and all other permanent funds derived from the sale of public lands or from any other source, in bonds of school corporations within the state, bonds of the United States, bonds of the state of North Dakota, or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the county board of appraisal of the respective counties, but such board shall not purchase or approve the purchase of any bonds or mortgages except at a legal session thereof, nor unless every member of the board is notified by the secretary of said board in time to be present at such meeting, and notified also that the question of purchasing or acting on a proposition for the purchase of certain bonds or mortgages is to be considered at the meeting, nor unless a majority of all the members vote in favor of such purchase, and the vote on the purchase of every bond and mortgage shall be taken by yeas and nays and shall be duly recorded in the books of the board.

§ 6. c. 118, 1898. **§ 173. Records to be kept by secretary.** The secretary shall enter in a suitable book kept for that purpose a full and correct record of all the proceedings of said board at each session thereof, which record when approved shall be signed by the president or presiding officer of the meeting and the secretary; he shall also keep such other books as may be necessary properly to register and describe all bonds and mortgages purchased or taken by it for the benefit of any of the permanent funds under its control. Such books shall be ruled so as to permit the registry of the name and residence of the person offering to sell any such bonds or mortgages, the district for which such offer is made, a description of the property covered by the mortgage, and a full and detailed description of every bond, whether United States, state or school district, and the date, number, series, amount and rate of interest of each bond, and when the interest and principal, respectively, are payable; and such record shall be made of every such bond and mortgage before the board shall act upon the question of purchasing the same. The secretary shall also keep in suitable books a record showing a detailed statement of the condition of all the permanent funds under control of said board, the amount of each fund, how invested, when due, interest paid and any other act in any manner connected with the management of said funds, and shall biennially report all such investments to the governor, to be laid before the legislative assembly. All the records and record books of such board shall at all times be open for inspection by the public.

§ 7. c. 118, 1898. **§ 174. Treasurer custodian of funds.** All moneys belonging to the permanent funds of the common school and other public institutions derived from the sale of any of the public lands or from any other source shall be paid to and held by the state treasurer, and be subject to the order of such board, and shall be paid over to the order of the board for investment as provided in section 172 of this article, whenever the board requires the same for such investment. The state treasurer shall also be the custodian of all bonds, notes, mortgages and evidences of debt arising out of the management of the permanent funds derived from the sale of any of the public lands of the state or from any other source.



**§ 175. Investments. How unpaid moneys to be collected.** § 8, c. 118, 1893.  
It shall be the duty of the state treasurer, from time to time as the same become due, to collect all moneys due and owing on any and all of the securities held by him for investment or for permanent funds, and from time to time, whenever required by the board, to make report of the amount of such collections to the board and a duplicate of the same to the state auditor. If any such moneys shall remain unpaid for thirty days after the same shall become due and payable, he shall make report in detail of all such unpaid amounts to the attorney general, whose duty it shall be to proceed to collect the same by civil action, to be brought and prosecuted in the name of the state.

**§ 176. Manner of investing permanent funds.** In the investment of the permanent funds under its control such board shall authorize the state auditor to draw his warrant on the state treasurer, payable out of the proper fund, for the purchase of the bonds or mortgages, which warrant, previous to delivery, shall be registered by the state treasurer in a book provided for that purpose. § 9, c. 118, 1893.

**§ 177. Incidental expenses of board, how paid.** The necessary incidental expenses of the board shall be paid out of the state treasury, and upon satisfactory vouchers therefor the state auditor shall issue his warrant for the same. § 10, c. 118, 1893.

**§ 178. Appropriation for interest.** There is hereby annually appropriated such sums as shall be found necessary for the expenses of purchase, and payment of accrued interest at the time of the purchase, of investment bonds or mortgages for the permanent funds under the control of said board, payable from the respective fund for which said purchase is made. § 11, c. 118, 1893.

**§ 179. Term of office of commissioner.** The first term of office of the commissioner provided for in this article shall be for three years from the date of his appointment and until his successor is appointed and qualified, and after the expiration of the first term, all succeeding terms shall be two years, and until his successor is appointed and qualified, subject to removal by the board. In case of vacancy by death, removal, resignation or any other cause, the board shall fill the same by appointment. § 12, c. 118, 1893.

**§ 180. Salary of commissioner.** The commissioner shall receive an annual salary of two thousand dollars. § 13, c. 118, 1893.

**§ 181. Deputy commissioner.** By and with the consent of the board, the commissioner may appoint a chief clerk, who before entering upon any of the duties devolving upon him by said appointment shall take and subscribe the oath of office required by law and shall execute to the state a bond with one or more sureties in the penal sum of five thousand dollars conditioned for the faithful discharge of his duties. § 14, c. 118, 1893.

**§ 182. Duties of commissioner.** The commissioner, under such directions as may be given by the board of university and school lands, shall have general charge and supervision of all lands belonging to the state, of all lands in which the state has an interest or which are held in trust by the state. He shall have the custody of all maps, books and papers relating to any of the public lands mentioned in this article. He shall procure the proper books, maps and plats in which to keep a complete record of all lands owned or held in trust by the state for schools, public buildings and for all other purposes, and shall keep true records of all the sales, leases, permits, § 15, c. 118, 1893.

patents, deeds and other conveyances of such lands made by the state, amount of money paid, date of sale and payment, description of land sold or leased, number of acres thereof, name of purchaser and designation of the fund that should be credited therewith. He shall direct all appraisements, sales, leases; shall execute all contracts of sale, leases, permits or other evidences of disposal of the lands, subject to approval by the board. Upon all contracts, leases or permits issued by the commissioner he shall certify the book and page where the same is recorded. He shall have an official seal with a proper device thereon; and the seal of the commissioner affixed to any contract of purchase, receipts or other instruments issued by him, duly countersigned by him as approved by the board, according to the provisions of this article, is prima facie evidence of the due execution of such contract or other paper. He shall biennially report to the legislative assembly through the board his work during the preceding term, showing the quantity of lands sold or leased, and the amount received therefor, the amount of interest moneys received to the credit of the several funds, expense of administration of his department, and all such other matters relating to his office as shall be necessary.

§ 16, c. 118, 1893.

**§ 183. County board of appraisal, duties of.** The county superintendent of schools, the chairman of the board of county commissioners and the county auditor of each county shall constitute the "County Board of Appraisers" of the public lands of the state in and for their county. The county board of appraisal in each county shall upon the request of the board of university and school lands, designate on or before such date as it may specify, the public lands of the state in their county, that in its judgment can be sold for ten dollars an acre or upwards on the terms prescribed in this article, designating the tracts separately and giving an approximate estimate of their selling value. Thereupon the commissioner shall, if so ordered by the board of university and school lands, prepare a list and order an appraisal of such lands as shall be designated in such list, and it is made the duty of such board of appraisers within ten days after the receipt of such list to examine such lands and appraise them at their cash value, as nearly as can be determined, describing each tract or subdivision in parcels not greater than one hundred and sixty acres, more or less, according to the government survey, and in smaller subdivisions thereof if so listed by the commissioners, and set opposite each described tract or parcel of land the appraised value per acre thereof; and when such appraisal is completed, which shall not be later than thirty days after the receipt of the order directing it, the county board of appraisers, or the members of the same who made such appraisal, shall certify to its correctness, and make duplicate copies thereof, one of which shall be forwarded immediately to the board of university and school lands, and the other filed in the office of the county auditor for reference. And in addition to the appraisal of such lands the county board of appraisal shall furnish such other information regarding the lands as may be required by the commissioner in the manner and form prescribed by him. The report of such appraisal shall be verified by each of such appraisers and shall disclose any interest, real or contingent, that any of such appraisers has in any of the lands or improvements so appraised. Any appraiser who willfully makes any false statement in such report, relative to such interest in any of the lands so appraised, or improvements thereon, shall be deemed guilty of a misdemeanor. For all services performed under

the requirements of this article the appraisers shall be paid at the rate of three dollars per day and actual traveling expenses, upon vouchers approved by the secretary of the board of university and school lands to be paid by the state treasurer upon warrants issued by the state auditor.

**§ 184. Selecting and certifying lands for sale.** The commissioner shall from the list of lands so appraised and reported by the county board of appraisers select all such tracts as have been appraised at ten dollars per acre and upwards, and upon approval of such selections by the board of university and school lands shall make and certify to the county auditors the list of lands in their respective counties that are offered for sale, and when transmitting such list shall designate the day and hour for the sale thereof; provided, that such sales shall take place only between the hours of ten o'clock A. M. and five o'clock P. M. and to be continued from day to day until all the lands advertised for sale shall have been sold or offered for sale, except that adjournments may be made for any intervening Sunday or legal holiday. § 17, c. 118, 1893.

**§ 185. Notice of sale to be published.** The county auditor shall immediately, on receipt of the list of lands mentioned in the preceding section, cause to be published in a paper designated by the county board of appraisers, as prescribed by section 158 of the constitution, a notice of such sale, with the list of lands properly described, that are to be offered for sale, together with the appraised value thereof and the terms and conditions of sale. The board of university and school lands shall also publish notices of all sales for the same length of time in one newspaper published at the seat of government. § 18, c. 118, 1893.

**§ 186. Manner of sale.** On the day and hour appointed for such sale the commissioner, except as hereinafter provided, shall proceed to sell or offer for sale at public auction to the highest bidder, at the court house or at the place where the terms of the district court are held, of the county where the lands are situated, the lands so advertised, offering them for sale and selling in the order in which they occur in the advertisement for sale. Such lands as have not been specially subdivided shall be offered in tracts of one-quarter section, according to the subdivisions thereof by the United States survey, and those so subdivided in the smallest divisions thereof. No tract shall be sold for less than its appraised value, and in no case for less than ten dollars an acre. Whenever the commissioner cannot attend the sale in person such sale may be made by the deputy land commissioner or any other person designated and authorized by the board of university and school lands. § 19, c. 118, 1893.

**§ 187. Terms of sale.** Each tract of land shall be sold upon the following terms: the purchaser shall pay one-fifth of the price in cash at the time of sale, and the remaining four-fifths as follows: one-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at six per cent per annum on all the unpaid principal, annually in advance. The highest bidder for any offered tract shall be declared the purchaser thereof, and shall immediately pay over to the county treasurer the amount of one-fifth of the purchase price as specified in the terms of sale. In case the purchaser fails to pay the amount so required to be paid at the time of such sale, such commissioner or whoever may be conducting the sale, shall immediately re-offer such lands for sale, but no bids shall be received from the person so failing to pay as § 20, c. 118, 1893.

aforsaid; and the person refusing or neglecting to make such payment shall forfeit the sum of one hundred dollars for each tract so purchased by him.

§ 21, c. 118, 1893.

**§ 188. Adjournment of sale.** No adjournment of the sale can be made after its opening, except as provided in section 184 of this article, but, when the interest of the state will be subserved thereby, the board of university and school lands may, at any time not less than two weeks preceding the dates fixed for opening such sale, make an order postponing the same to such date as may be fixed in such order, which shall not be more than sixty days, giving due notice of the same to the county auditor, who shall publish such notice of adjournment and the day fixed for the same, for two successive weeks in the same papers in which the notice of sale is published; but the adjournment of any sale shall not require continued publication of the list of lands beyond the time specified in this article for such publication.

§ 22, c. 118, 1893.

**§ 189. Withdrawal of lands from sale.** The board of university and school lands may, in its discretion, on or before the day of sale, withdraw any or all lands that may have been advertised for sale or included in any list to be offered in any county, and upon such withdrawal shall notify the auditor of such county, specifying the lands included in such notice of withdrawal, who shall thereupon strike such lands from the lists in his office, and public notice of withdrawal shall be given at the day of sale before any such lands are offered.

§ 23, c. 118, 1893.

**§ 190. County auditor to act as clerk at sale. Approval of sale.** The county auditor shall act as clerk of all land sales and leases made in his county, and it shall be his duty within five days after such sale or lease shall have been concluded to certify to the board of university and school lands a list of lands sold or leased as provided in this article, with the price thereof and the name of the purchaser or lessee of such tract, the amount for which the lands are sold or leased, the amount of money paid by such purchaser, and the amount of principal remaining unpaid, and the board of university and school lands shall approve and confirm the sale or lease of every such tract, as upon examination of such certified lists and such further information and investigation as shall be deemed necessary, shall be found to have been sold or leased in accordance with the law and without fraud or collusion. For the services imposed by this article the county auditor shall be allowed the sum of three dollars per day for each and every day so engaged, to be paid out of any appropriation for the expenses of appraisal and sale of public lands.

§ 24, c. 118, 1893.

**§ 191. Notice to purchaser. Execution of contract.** Immediately upon approval of the sales by the board of university and school lands, the secretary of such board shall prepare and certify a list of said approved sales to the commissioner, who shall without delay execute duplicate contracts in the form prescribed by the board, and forward the same to the county auditor of the county where the land was sold, whereupon it is made the duty of the county auditor to notify each purchaser in writing of the approval of the sale to him, and to appear within ten days after the date of such notice and pay the county treasurer the amount of interest on the deferred payments as specified in the contract and execute the contracts of sale, and a failure so to appear and execute such contract shall act as a forfeiture of the payment made by the purchaser at the sale. When the

contracts are properly executed by the purchaser and the amount of money due thereon shall have been paid to the county treasurer the copy marked duplicate shall be delivered to him and the original returned to the land commissioner, and each contract so returned fully executed shall have on its face in the place noted for such purpose the notation of the date of delivery to the purchaser, and all contracts not executed by the purchaser shall be returned to the land commissioner with a written statement thereon of the reason for such return.

**§ 192. Sales, when void.** Any sale made by mistake, or not in accordance with law, or obtained by fraud, shall be void, and the contract of purchase issued thereon shall be of no effect; but the holder of such contract shall be required to surrender the same to the board of university and school lands, who shall, except in case of fraud on the part of the purchaser, cause the money to be refunded to the holder thereof. § 25, c. 118, 1893.

**§ 193. Surveys to be made when necessary.** Whenever it appears to the board of university and school lands necessary in order to ascertain the true boundaries of any tracts or portions of lands, or to enable the commissioner to describe or dispose of the same in suitable and convenient lots, it may order all such necessary surveys to be made and the expenses shall be paid out of the state treasury as other incidental expenses of the board of university and school lands are paid. § 26, c. 118, 1893.

**§ 194. Subdividing land into small tracts or lots, when to be made.** Whenever in the opinion of the board of university and school lands the interests of the state will be promoted by laying off any portion of the land under its control into small parcels or city, town or village lots, the board may order such commissioner to cause the same to be done, and have the same appraised in the same manner as hereinbefore prescribed. § 27, c. 118, 1893.

**§ 195. Sale of lots. New appraisal.** All parcels or lots so appraised shall be subject to sale in the same manner and upon the same terms and conditions and the contract of purchase shall have the same effect, as in the case of other lands for which provision is made in this article, and at the prices at which the same are severally appraised, until a new appraisal is made, which the board of university and school lands may in its discretion order at any time, in the manner aforesaid, and with the like effect; but no lots or parcels so appraised shall be sold for less than the minimum price of said land, established in this article. § 28, c. 118, 1893.

**§ 196. Map to be entered of record.** Whenever the commissioner shall lay off any tract of land into small parcels or lots, as provided in this article, he shall cause a correct map of the same to be entered of record in the county where said lands are situated. § 29, c. 118, 1893.

**§ 197. Contracts of purchase. Rights under.** Contracts of purchase, issued pursuant to the provisions of law, entitle the purchaser, his heirs or assigns, to the possession of the lands therein described, to maintain actions for injuries done to the same, or any action or proceeding to recover possession thereof, unless such contract has become void by forfeiture; and all contracts of purchase in force may be recorded in the same manner that deeds of conveyance are authorized to be recorded. § 30, c. 118, 1893.

**§ 198. Assignee of purchasers.** Each assignee of a bona fide purchaser of any of the lands mentioned in this article is subject to and governed by the provisions of law applicable to the purchaser § 31, c. 118, 1893.

of whom he is assignee; and he shall have the same rights in all respects as an original purchaser of the same class of lands.

§ 32, c. 118, 1893.

**§ 199. Contracts may be surrendered and two or more issued, when.** Whenever the holder of any contract of purchase of any state or school land shall surrender the same to the commissioner with a request to have the same divided into two or more contracts, it shall be lawful for the commissioner to issue the same; provided, that the proposed subdivision shall be only in the smallest of the regular government or state subdivisions; and, provided, that no new contracts shall issue while there is due and unpaid any interest, principal or taxes on the principal contract of sale, nor in any case where the commissioner shall be of the opinion after an examination of the lands, if necessary, that the security would be impaired and endangered by the proposed division, nor until such proposed change shall have the approval of the board of university and school lands, and for all such new certificates a fee of five dollars for each certificate so issued shall be paid by the applicant, which fee shall be paid into the state treasury and become a part of the expense fund of the board of university and school lands.

§ 33, c. 118, 1893.

**§ 200. Contract void on failure to pay principal, interest or taxes.** In case the annual interest due on the first day of January in any year shall not be paid within ten days thereafter by the purchaser or by any person claiming under him, the contract shall, from the time of such failure, be void. In case any installment on the purchase price shall not be paid within ten days after the same becomes due by the provisions of contract of sale, the contract, from the time of such failure shall be void. And in case any of the taxes assessed against the lands described in any contract of sale for any year as provided for in this article shall remain unpaid on the second Monday of October of the following year, the contract shall be void. And in all cases where any contract becomes void by reason of failure to make the payments required by the contract and the terms of this section, it shall be the duty of the board of university and school lands to declare such contract of sale void, and notify the holder thereof of such declaration by written notice mailed to his post office address and to send a duplicate copy thereof to the auditor of the county in which such land is situated, and to order the commissioner to take possession of the land described in such contract.

§ 34, c. 118, 1893.  
am'd.

**§ 201. Redemption before re-sale.** In all cases where the rights of a purchaser, his heirs or assigns, become forfeited under the provisions of this article, by failing to pay the amounts required, such purchaser, his heirs or assigns, may, before the re-sale at public auction of the lands described in such contract, pay to the state treasury the amount of interest due and payable on such contract, and all costs which have been incurred in addition thereto, together with interest at the rate of twelve per cent per annum on the interest and costs so due from the date of delinquency to the date of payment, and such payment shall operate as a redemption of the rights of such purchaser, his heirs or assigns, and such contract from the time of such payment shall be in full force and effect, as if no forfeiture had occurred; provided, that after the rights of a purchaser, his heirs or assigns shall have become forfeited under the provisions of this article, the board of university and school lands shall have the power, and it is hereby made their duty to provide for the re-sale of said land so forfeited if in their opinion a resale of said land shall be

most advantageous to the state, otherwise the said board shall provide for the leasing of said land from year to year as herein provided, and after a lease of said land shall be made by said board, the lessee, his heirs and assigns, shall be entitled to the full and absolute possession of all of said lands and premises so leased.

**§ 202. Fee in state until contract fulfilled.** The fee of each parcel of such lands shall be and remain in the state until the patents hereinafter provided for are issued for the same respectively, and no patent shall issue until full payment of all sums and full compliance with all the conditions of the contract of purchase, and in case of non-compliance by the purchaser, his heirs or assigns, with the terms of the contract as aforesaid, or with the provisions of law applicable thereto, any and all persons being or continuing in possession of any such lands after a failure to comply with the terms of the contract as aforesaid, or with such provisions of law, as aforesaid, without a written permission of the commissioner, shall be deemed and held to detain such land forcibly and without right, and to be trespassers thereon. § 35, c. 118, 1893.

**§ 203. Recovery of possession.** In case any person holds or continues in possession of any of the land mentioned in this article, contrary to the conditions or covenants of any lease or written agreement, he shall be liable to an action of forcible detainer, or any other proper action for the recovery of possession of such lands and damages for detention of the same. § 36, c. 118, 1893.

**§ 204. Reconveyance to the United States.** In all cases where lands have been erroneously or improperly certified or conveyed to the state of North Dakota for school or other purposes by the United States, the governor of the state is authorized to reconvey or relinquish by the execution, under his hand and the seal of the state, of such conveyances as will be necessary to convey or relinquish the title which the state may have to such lands. § 37, c. 118, 1893.

**§ 205. Patents, when to issue.** When any land sold under the provisions of this article has been fully paid for, and all terms of the contract of purchase fully complied with, the board of university and school lands shall so certify to the governor, who shall thereupon issue to the purchaser thereof, his heirs or assigns, a patent conveying the title of the state to such land, and the governor shall in like manner issue a patent to any purchaser of the rights, title and interest of the original purchaser, his heirs or assigns, acquired by any execution sale. All such patents shall be signed by the governor and attested by the secretary of state with the great seal of the state of North Dakota, and shall be countersigned by the board of university and school lands with the seal of the secretary of said board. § 38, c. 118, 1893.

**§ 206. Patents to be recorded.** The registers of deeds of the several counties of this state are authorized to record all patents issued by the governor pursuant to the provisions of this article; and the records thereof shall have the same effect as the record of other conveyances executed according to the laws of this state. § 39, c. 118, 1893.

**§ 207. Taxation of lands after sale. Purchaser of tax certificate.** The commissioner shall, as soon as possible after a sale of lands, transmit to the auditor of each county, in which any lands mentioned in this article have been sold, a detailed description of each parcel of the land so sold and the names of the purchasers, and the auditor shall extend the same upon his tax duplicate for the purpose of taxation, and the same shall thereupon become subject to

taxation the same as other lands, and the taxes assessed thereon, collected and enforced in like manner as against other lands; provided, however, that the purchaser at tax sale of any such lands sold for delinquent taxes shall only acquire by virtue of such purchase such rights and interest as belong to the holder and owner of the contract of sale issued by such commissioner under the provisions of this article, and the right to be substituted in the place of such holder and owner of such contract of sale, as the assignee thereof; and upon the production to the proper officer of the tax certificate given upon such tax sale, in case such lands have not been redeemed, such tax purchaser shall have the right to make any payment of principal or interest then in default upon such contract of sale, as the assignee thereof.

§ 41, c. 118, 1893.

**§ 208. Payment to county treasurer. Duty of treasurer.** The purchaser of any land mentioned in this article, or his assigns, may pay to the county treasurer of the county in which such land lies any amount which may be due from time to time on the contract, either for principal, interest, rents or penalty, and for the amounts so paid the county treasurer shall give to such person a duplicate receipt specifying the amount paid, date of payment, whether for principal, interest or penalty, and the fund to which it is applicable, the number of the contract, the name of the original purchaser of the land, or the assignee thereof, which receipt shall be countersigned by the auditor of said county, and have the same force and effect as if given by the state treasurer. All moneys received by the county treasurer, under the provisions of this article, shall be held at all times subject to the order and direction of the state treasurer for the benefit of the funds to which the moneys respectively belong; and during the months of January, March, June and October of each year, and such other times as he may be requested so to do by the state treasurer, he shall pay into the state treasury all moneys received on account of such funds since the last payment he may have made.

§ 42, c. 118, 1893.

**§ 209. Bond of county treasurer. Conditions of.** The bond of each county treasurer shall be conditioned for the honest and faithful discharge of all trusts and responsibility imposed by this article, and for the faithful payment of and accounting for all moneys received by him under the provisions of this article to the state treasurer or any other person entitled to receive the same, and the board of university and school lands shall on or before the first day of January, following any election for county officers, certify to the chairman of the board of county commissioners of each county the amount of money liable to come into the hands of the treasurer of the county under the provisions of this article, and the board of county commissioners shall add to the amount of the sum required on his regular official bond to the county double the sum so certified by the board of university and school lands, and the record of the proceedings of such board of county commissioners when fixing the amount of such bond shall specify in two separate items the aggregate amount of the bond so made up, designating one sum as the amount to indemnify the county, and the other to indemnify the state for any losses incurred by reason of failure to comply with the provisions of all laws regulating his duty.

§ 43, c. 118, 1893.

**§ 210. Fees to county treasurer.** County treasurers shall be entitled to a fee of one-half of one per cent on each dollar collected or received and remitted by them in payment of principal or interest, fines, penalties and damages on state lands, which fee shall be



payable from the general fund of the class of lands on which payment is made to such treasurer, and such fee shall be paid to the county treasurer on vouchers countersigned by the county auditor and approved by the commissioner of university and school lands and such approved vouchers shall be paid out of any appropriation for the expenses of appraisal and sale of such lands.

**§ 211. Duty of county auditor.** The county auditor shall, at the time he is required by law to return abstracts of settlement to the state auditor, also forward all duplicate receipts of principal, interest or penalty on state lands, with a certified statement of such collections by the county treasurer, specifying the amount of each item; and he shall also make such return at any other time as may be required by the board of university and school lands. § 44, c. 118, 1893.

**§ 212. List of lands sold to be furnished county treasurer.** On or before the first day of December in each year the commissioner shall cause to be made out and transmitted to county treasurers a statement showing the lands sold in their respective counties, the number of the contracts of purchase, the name of the person to whom each contract was issued, and the amount of both principal and interest due on each on the first day of January, together with such directions, instructions and blanks as shall enable the county treasurers to carry out the provisions of this article. § 45, c. 118, 1893.

**§ 213. Township assessors to examine state lands.** It shall be the duty of all township and district assessors, whenever required by the commissioner to examine and report on any lands designated to them by him, in the manner and form prescribed by him, and for such examination they shall be paid at the rate of three dollars per day for time actually engaged, upon vouchers approved by the commissioner. § 46, c. 118, 1893.

**§ 214. Transfer of records to commissioner.** All abstracts and conveyances of title to the state of North Dakota whether the said lands are held for penal, educational, charitable, school or other purposes, shall be, by those in whose charge such conveyances now are or may come, deposited with and remain in the control of the commissioner of university and school lands. § 47, c. 118, 1893. am'd.

**§ 215. Permanent and general funds.** The principal accruing from all sales of school, university or other state lands under the control of the board of university and school lands, as provided for in this article, shall become a part of the several permanent funds to which they respectively belong and shall not be reduced by any means whatever. All moneys received as interest, for rents, penalties, permits or from any source other than from the principal of sales shall become a part of the general or current funds to which they respectively belong and shall be distributed as directed by law. § 48, c. 118, 1893.

**§ 216. Quantity of lands to be sold.** No more than one-fourth of the common school lands of the state shall be sold within the first five years after they become salable under the provisions of section 155 of the constitution, nor more than one-half of the remainder within ten years after the same become salable as aforesaid. The residue may be sold at any time after the expiration of such ten years; provided, however, that the coal lands of the state shall not be sold, but may be leased under the provisions of any law governing such leases. The words "coal lands" include lands bearing lignite coal. § 49, c. 118, 1893.

§ 50, c. 118, 1893.

**§ 217. Lands subject to lease.** All the common school lands and all other public lands of the state that are not of such value as will admit of appraisal at ten dollars or more per acre, at the time of any regular appraisal, may be leased; provided, that no leases can be granted for a period longer than five years, and only for pasturage and meadow purposes, and at a public auction after notice as herein-after provided; provided, further, that all of such school and public lands now under cultivation may be leased at the discretion and under the control of the board of university and school lands for other than pasturage and meadow purposes until sold. All rents shall be paid annually in advance.

§ 51, c. 118, 1893.  
am'd.

**§ 218. Appraisal for lease by county board.** It shall be the duty of the county board of appraisers, each and every year, if so ordered, to appraise in the same manner as all other lands that are listed for taxation are appraised all the common school and other public lands of the state in their respective districts that may be included in the order, making a return of all such appraisals to the board of university and school lands in the form prescribed on blanks furnished by the board; such returns to be made on or before the first day of July of the same year; and for any services performed as required by this article they shall be paid at the rate of three dollars per day, to be paid by the state treasurer out of the funds appropriated for the current expenses of such board. It shall be the duty of the board of university and school lands to equalize the appraisements so returned as to counties by adding thereto or taking therefrom such a uniform percentage as may in its judgment seem proper and fair in order to arrive at a just and equitable equalization between the several counties, and upon such valuation so fixed the board of university and school lands are authorized to fix a per cent per acre as the minimum price at which the land can be leased; provided, that the lowest price of lands leased for pasturage cannot be below one-half of one per cent of the average value in the county, and for any cultivated lands in the county the lowest price cannot be below two and one-half per cent of the appraised value of each cultivated tract. And when advertising the same for lease they shall set opposite each description the value thereof as equalized by them, which valuation shall form the basis for leasing the same.

§ 52, c. 118, 1893.

**§ 219. Selection of lands for lease.** The board of university and school lands shall have the power, and it is hereby made their duty to select from the lands so appraised such tracts as in the judgment of the board can be leased with profit to the school and other permanent land funds of the state, or as the legislative assembly may by law order to be leased, and shall on or before the first day of March in each succeeding year advertise for lease and offer for lease such lands as have thus been selected.

§ 53, c. 118, 1893.

**§ 220. Advertisement for leasing.** All such lands to be leased or offered for lease lying within the respective counties shall by the board of university and school lands be advertised for lease by publication once a week for not less than sixty days in some newspaper of general circulation in the vicinity of such lands. Such advertisement shall contain the designation or proper description of each tract or parcel of land so to be leased, the appraised value of each tract and the per cent on such valuation fixed by the board as the minimum price at which such land can be leased and the terms of the lease. A copy of such advertisement shall also be posted in a conspicuous place

at the court house of the county, and a notice of the time and place where the said lands are to be leased shall also be published for not less than sixty days in one newspaper at the seat of government by such board of university and school lands; provided, that if in the opinion of the board there will not be sufficient of such lands situate in any county leased to pay the expenses of advertisement in a newspaper, the notice may be given by posting as aforesaid.

**§ 221. Manner of leasing. By whom made. How conducted.** It shall be the duty of the commissioner of university and school lands, or such other person as may be appointed by the board of university and school lands, to conduct the leasing of such lands in accordance with the provisions of this article and such directions as shall be prescribed therefor by the board; provided, that the leasing shall be at public auction to the highest bidder at the court house or place where terms of the district court are held, commencing on the day specified in the advertisement for such lease and between the hours of ten o'clock A. M. and five o'clock P. M. to continue from day to day until all tracts or parcels of land advertised for lease shall have been leased or offered for lease; but the time for leasing the same shall not exceed ten days in any county, except that an adjournment may be made over the Sabbath or any legal holiday. In counties where a large number of tracts of land are to be leased the land situated in certain townships may be designated in the advertisement to be leased on certain specified days and in such case such lands shall be leased or offered for lease on such specified days, or for want of time for the leasing or offering for lease of all such designated lands, the leasing of those unoffered may be adjourned until the following day or days, when they must be the first lands offered for lease. Such lands as shall not have been specially subdivided shall be leased or offered for lease in tracts of one-quarter section each, and those so subdivided in the smallest subdivision thereof. Notice must be given when the land is offered that all bids are subject to approval by the board. At the time of offering the lands for lease the county auditor of the county shall act as clerk, and it shall be his duty to make report thereof, stating the terms of such leasing, as is prescribed in section 190 for making reports of sales.

§ 54, c. 118, 1893.

**§ 222. Deposit by bidders. Forfeit on failure to pay.** In offering any tract or parcel of land no bid shall be entertained until the bidder therefor shall deposit fifty per cent of the minimum price fixed in the advertisement, which deposit, should he be the successful bidder, shall be applied as part payment on the lands so leased by him, but should he fail to pay the balance required on his bid he shall forfeit the money so deposited. Deposits by all unsuccessful bidders shall be returned to them. All competitive bids shall be on the basis of so many dollars premium over and above the minimum price at which the tract is offered. The annual rent in all cases of lease shall be payable in advance as hereinafter provided.

§ 55, c. 118, 1893.

**§ 223. Adjournment of lease.** Whenever the board of university and school lands finds that the interests of the state will be subserved by the adjournment of the time for offering lands for lease, the authority conferred by section 188 for adjournment of sales is made applicable to the leasing of lands.

§ 56, c. 118, 1893.

**§ 224. Approval of lease and execution of contract.** Immediately upon the receipt of the report of the county auditor as required by this article the board of university and school lands

§ 57, c. 118, 1893.

shall approve and confirm the lease of all such tracts as in their judgment should be made, and shall at once certify a list of the approved leases to the commissioner who shall without delay execute duplicate contracts of lease in the form prescribed by the board and forward the same to the county auditor of the respective counties where the land was leased, who shall notify each lessee in writing to appear within ten days after date of notification and pay the county treasurer the amount of money required to complete the contract, and execute such contract of lease; and a failure to appear and execute the contract shall forfeit the deposit made at time of the bid. When the contract is properly executed by the lessee and the amount of money due thereon shall have been paid to the county treasurer, the copy marked "duplicate" shall be delivered to him and the original thereof shall be returned to the commissioner, and each contract fully executed and so returned, shall have on its face in the place noted for such purpose the notation of the date of delivery to the lessee, and all contracts not executed by the lessee shall be returned to the commissioner with a written statement thereon of the reason that they are not executed.

§ 59, c. 118, 1893. **§ 225. Lessee not to destroy timber.** No lessee of any of the common school or public lands of the state, or his heirs or assigns, shall cut down or take away from such tract any timber, trees or wood, or suffer or cause the same to be done by any person, except that such lessee may cut down or use such amount of dead, or prostrate trees, or timber as may be sufficient to supply him with fuel for his family or the families of his employees actually residing upon such tract. Any lessee violating the provisions of this section shall forfeit his lease and all rights and interests thereunder, and shall be liable to the state for damages sustained by the state by reason thereof, and shall be guilty of a misdemeanor.

§ 60, c. 118, 1893. **§ 226. Lessee not to break uncultivated land.** No lessee, or the heirs or assigns of any lessee, of any of the common school or public lands of this state, leased for meadow or pasturage purposes, or of school or public lands leased for the purpose of cultivation, which may contain any uncultivated or unbroken land, shall break, plow or cultivate any unbroken land on any tract so leased, or cause or suffer it to be done by any other person. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and liabilities as are provided in the preceding section, and shall also be guilty of a misdemeanor.

§ 61, c. 118, 1893. **§ 227. Hay not to be cut before July 10th.** No lessee, or his heirs or assigns, shall mow or cut for hay or feed any grass on any unbroken land, or cause or suffer the same to be done by any other person prior to the tenth day of July in any year. And any lessee, or his heirs or assigns, who shall violate the provisions of this section shall incur the same forfeitures and liabilities as are provided in section 225 and shall also be guilty of a misdemeanor.

§ 62, c. 118, 1893. **§ 228. Board may grant permits to cut hay, remove timber, etc.** The board shall have authority, when in its judgment it is for the best interests of the state so to do, to sell the right to cut grass on any of the public lands of the state and to sell any fallen and dead timber on such lands for such price and on such terms and conditions as it may think proper; provided, that all such permits shall be only for the current season and between the fifteenth day of June and the first day of April of the following year, and that the control

or rights of occupancy of such lands shall be only such as is specified in such permit, and the board of university and school lands may appoint as local agents to carry out the provisions of this section the chairman of the board of township supervisors in organized townships, the commissioner of any district where the townships are not organized, or any other suitable person who is a resident of the township where the public lands are situated, who upon accepting such appointment and before entering upon his duties as such agent shall take and subscribe an oath or affirmation justly and impartially to perform the duties of his office to the best of his ability, which oath shall be recorded in the office of the secretary of state and filed in the office of the board of university and school lands. The duties of such agent shall be prescribed by the commissioner, to be approved by the board of university and school lands, and compensation for his service shall be fixed by the board, based upon a percentage of the amounts of money collected and remitted to the state treasurer from the sale of grass and timber in his township or district.

**§ 229. Trespass upon public lands. Civil action for.** § 63, c. 118, 1893.  
Whoever commits any trespass upon any of the lands owned, or held in trust, or otherwise by the state shall be liable in treble damages in an action to be brought in the name of the state, if such trespass is adjudged to have been willful; but single damages only shall be recovered in such action if such trespass is adjudged to have been casual and involuntary.

**§ 230. Willful trespass. Penalty.** § 64, c. 118, 1893.  
Whoever commits any willful trespass upon any of the lands owned or held in trust or otherwise by this state, either by cutting down or destroying any timber or wood standing or growing thereon, or by carrying away any timber or wood therefrom, or by mowing or cutting or removing any hay or grass standing or growing or being thereon, or who injures or removes any buildings, fences, improvements or other property belonging or appertaining to said land or unlawfully breaks or cultivates any of said lands or aids, directs or countenances such trespass or other injury shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars, or both such fine and imprisonment, in the discretion of the court. And whoever is occupying, residing upon or in possession of any school or other public lands owned or held in trust or otherwise by the state at the time of the passage, approval and taking effect of this act without a valid lease therefor shall be deemed and held to be a willful trespasser thereon, and guilty of trespass upon such land, and upon conviction thereof shall be punished as provided for in this section for any other act of trespass.

**§ 231. Property to be seized.** § 65, c. 118, 1893.  
In addition to the penalties provided for in this article against those committing trespass upon any of the lands owned or held in trust or otherwise by this state, the commissioner is authorized and empowered without legal process to seize and take, or cause to be seized and taken any and all timber, grass, wood or other property unlawfully severed from such lands, whether the same has been removed from such lands or not, and may dispose of the property so seized and taken, either at public or private sale, in such manner as will be most conducive to the interests of the state; and all moneys arising therefrom after deducting the reasonable and necessary expenses of such seizure and sale shall be made a part

of the general fund belonging to the public lands and shall be distributed in accordance with the provisions of this article.

§ 67, c. 118, 1893. § 232. **Damages.** All damages recovered for any trespass, or other injury upon or to any of the lands mentioned in this article, shall be paid over to the state treasurer for the benefit of the general fund to which the same properly belongs.

§ 68, c. 118, 1893. § 233. **State's attorney to prosecute and report.** The state's attorneys of the several counties shall promptly report to the commissioner all cases of trespass committed upon such lands, which may come to their knowledge, and shall, when directed by the attorney general, prosecute all actions for any trespass or injury thereto, or for recovery of possession thereof, or otherwise.

§ 70, c. 118, 1893. § 234. **Expenses of sale and lease, how paid.** The expenses of publishing notices of the leasing and sale of the university, school and all other public lands of the state shall be paid by the state treasurer upon the warrant of the state auditor out of the general or current funds of the different institutions as designated in section 215, and such expenses shall be apportioned according to the receipts credited each fund from proceeds of each and every sale or lease. All bills for such publishing shall be verified by the publisher and approved by the board of university and school lands.

§ 71, c. 118, 1893.  
§ 1, c. 112, 1895. § 235. **Appropriation for expenses of board.** There is hereby annually appropriated out of any funds in the treasury not otherwise appropriated the sum of five thousand dollars, or so much thereof as may be found necessary, for the salaries and expenses of the commissioner of university and school lands, clerk hire, record books, blanks and all such other expenses as shall be necessarily incurred by the board of university and school lands in carrying out the provisions of this article, and such expenses shall be paid out of the treasury, and upon satisfactory vouchers therefor the state auditor shall issue his warrant for the same.

#### ARTICLE 4.—THE STATE BOARD OF AUDITORS.

§ 1, c. 48, 1893. § 236. **Membership of board.** There is hereby created a board of auditors for the state of North Dakota, which shall consist of the secretary of state, the state auditor and the attorney general, whose duty it shall be to examine and audit the accounts, books and vouchers of the state treasurer, and to take an account and ascertain the amount of funds in the state treasury or belonging to the state at least twice in each year without previous notice to the treasurer, and make report thereof and of their acts and doings in the premises to the governor, and also to witness and attest the transfer and delivery of accounts, books, vouchers and funds by any outgoing treasurer to his successor in office, and report the same to the governor.

§ 2, c. 48, 1893.  
am'd. § 237. **State depositories.** All the funds of the state shall be deposited by the treasurer in one or more designated national or state banks in the state on or before the first day of each month in the name of the state; such bank or banks shall be designated by the board of auditors in conjunction with the governor after advertising in one or more newspapers published in the state for at least thirty days for proposals and receiving proposals, stating what security will be given to the state for any state funds deposited and what interest paid on monthly balances of such funds on condition that such funds with accrued interest shall be held subject to draft and payment at all times on demand; provided, that the amount deposited in any

bank shall not exceed the assessed value of its capital stock. Interest on the funds so deposited shall be at the rate of not less than three nor more than four per cent per annum.

§ 238. **Bond to be furnished.** Before any bank shall be designated as such depository it shall deposit with the state treasurer a bond payable to the state and executed by not less than seven freeholders of the state as sureties, which bond shall be approved by the governor and the state board of auditors, and shall be in such an amount as such board shall direct, not less than double the amount of funds to be deposited in such bank at any one time. § 3, c. 48, 1893.

§ 239. **Treasurer exempt from liability.** Whenever any portion of the funds of the state is deposited in any national or state banks in the manner above provided the state treasurer and the sureties on his bond shall be exempt from all liability by reason of the loss of any such deposited funds from failure, bankruptcy or any other act of such bank to the extent and amount of such funds in the hands of such bank at the time of such failure or bankruptcy. § 4, c. 48, 1893.

## ARTICLE 5.—BOARDS OF HEALTH.

### STATE BOARD OF HEALTH.

§ 240. **Board, how composed. Officers of.** There is hereby established a state board of health, composed of a president, vice president and superintendent of public health. The attorney general shall be president of such board. The governor shall appoint some suitable person, a resident of this state, vice president, and he shall also appoint by and with the advice and consent of the senate a superintendent of public health, who shall be learned in medicine, a graduate of some reputable medical college authorized by law to grant diplomas and hold a license to practice medicine and surgery within the state, and be a resident of this state. The several persons thus appointed shall hold their offices for two years from the first Tuesday in April succeeding their appointment and until their successors are elected and qualified. § 1, c. 22, 1889, am'd.

§ 241. **Duties of officers.** The president of the board shall preside at the meetings thereof, and the vice president shall perform the duties thereof in his absence. The superintendent of public health shall be secretary of said board. He shall keep a record of all the proceedings of the state board of health, and of his own acts as such superintendent, and he shall perform such other duties as are prescribed by this article, or which may be prescribed by the state board of health. The records kept by the superintendent shall be at all times open to the inspection of the public. § 2, c. 63, 1885.

§ 242. **Meetings of the board.** The several persons composing the state board of health shall meet as often as once in every six months at such place in the state as they may appoint. § 3, c. 63, 1885.

§ 243. **Powers and duties of board.** The board shall have power and it shall be its duty: § 4, c. 63, 1885.

1. To fix the time and the place of the meetings of the board, subject to the provisions of the last section.

2. To make rules and regulations for the government of the board, its officers and its meetings.

3. To make and enforce all needful rules and regulations for the prevention and cure, and to prevent the spread of any contagious, infectious or malarial diseases among persons and domestic animals.

4. To establish quarantine, and isolate any person affected with contagious or infectious disease.

5. To isolate, kill or remove any animal affected with contagious or infectious disease.

6. To remove or cause to be removed any dead, decaying or putrid body, or any decayed, putrid or other substance that may endanger the health of persons or domestic animals.

7. To condemn or cause to be destroyed any impure or diseased article of food that may be offered for sale.

8. To superintend the several boards of health in cities, villages and towns and the county boards of health of the several counties.

9. To empower and direct the superintendent of public health to do or cause to be done any or all of the things mentioned in subdivisions four, five, six, seven and eight of this section.

§ 6, c. 63, 1885.

**§ 244. Compensation of officers.** The president and vice president of the board shall receive no compensation for the performance of their official duties, but they shall be paid five cents for every mile actually and necessarily traveled and such other necessary expenses as they may pay or incur in attending the meeting of the board, or in the performance of their duties as such officers.

COUNTY BOARD OF HEALTH.

§ 7, c. 63, 1885.  
1. c. 26, 1890.

**§ 245. Board, how composed.** There is hereby established a county board of health, composed of a president, vice president and superintendent. The state's attorney in each county shall be president of the county board. The board of county commissioners shall appoint some suitable person, who is a resident of the county, vice president; and it shall also appoint a superintendent of public health for the county, who shall be learned in medicine and hold a license to practice medicine and surgery within the state, and the several persons thus appointed shall hold their offices for two years and until their successors are elected and qualified.

§ 8, c. 63, 1885.

**§ 246. Duties of officers of county board.** The president of each county board of health shall preside at the meetings thereof and in his absence the vice president shall perform the duties of president. The county superintendent of health shall be secretary of the board of health of his county. The county superintendent of health shall keep a record of all the proceedings of the board and of his official acts, and he shall at the end of every month make a full report in writing to the superintendent of public health of the proceedings of the county board of health and of his official acts, and shall, whenever the health of persons or domestic animals is endangered, or when any contagious or infectious disease occurs in his county, either among persons or domestic animals, immediately report the same to the superintendent of public health.

§ 9, c. 63, 1885.

**§ 247. Meetings of county board of health.** The several county boards of health shall meet at the county seat in their respective counties at such time within thirty days after the appointment of the county superintendent of health as he may designate. Notice of the time and place of such meeting shall be by him given to the other members of the county board at least five days prior to such meeting, and thereafter the board shall meet at the county seat as often as once in every three months.

§ 10, c. 63, 1885.

**§ 248. Powers and duties of county board of health.** The several county boards of health shall have power within their



respective counties, outside of the corporate limits of cities having a city board of health, subject to the supervisory control of the state board of health, and the superintendent of public health, to do and perform all the things mentioned in subdivisions three, four, five, six, seven and eight of section 243. All expenses actually and necessarily paid or incurred by the county board of health in carrying out the provisions of this article shall be audited by the board and certified to the county commissioners and shall be paid the same as other county expenses are paid.

**§ 249. Powers and duties of superintendent.** The county superintendent of health shall have charge of and superintend, subject to the approval of the board of which he is a member and the supervisory control of the state board of health and the superintendent of public health, all the matters and things mentioned in subdivisions four, five, six and seven of section 243 within his county, and in case of immediate danger to the health of persons or of domestic animals he may act, as in his judgment he deems best, without consultation with the other members of the board for the prevention of such danger, and shall immediately report such action to the president of the board and to the superintendent of public health. § 11, c. 63, 1885.

**§ 250. Compensation.** The president and vice president of the board shall receive no compensation for the performance of their official duties; but shall receive five cents for every mile actually and necessarily traveled in the discharge of such duties. The county superintendent of health shall receive five dollars per day for every day in which he may be actually and necessarily engaged and five cents per mile for each mile actually and necessarily traveled in the performance of his duties, and he shall also receive such other sum as he may necessarily pay or become liable to pay in carrying out and performing the various duties imposed upon him under the provisions of this article, or by the county board of health, all of which accounts for services, mileage and other expenses shall be audited by the board and certified to the board of county commissioners and paid as other county expenses are paid. § 12, c. 63, 1885.

**§ 251. Reports.** The superintendent of public health shall on the first day of December of each even numbered year make a full report to the governor, which report shall show all that has been done by the state board of health and by such superintendent during the two years preceding the making of such report, the number of cases treated by him and in each county by the county superintendent, the character and extent during such time of all contagious or infectious diseases that have been reported to him, all expenditures by the state board, and in each of the organized counties by the county board and such recommendations as he may deem advisable for the better protection of the public health and the prevention and cure of contagious or infectious diseases of persons and of domestic animals. § 13, c. 63, 1885. am'd.

**§ 252. Vacancies.** In case a vacancy shall occur in the office of vice president or superintendent, such vacancy shall be filled by appointment by the governor, and the person so appointed shall hold the office for the unexpired term. In case a vacancy occurs in the office of vice president or superintendent of health in any county board of health, the superintendent of public health shall appoint some suitable person to fill such vacancy, and the person so appointed shall hold such office until the next meeting of the state board of § 15, c. 63, 1885.

health and until a successor to such officer has been appointed by the state board.

§ 16, c. 63, 1885. **§ 253. Boards of health heretofore established, not affected.** Nothing contained in this article shall in any manner affect any board of health heretofore established or that may be hereafter established in any city, village or incorporated town; provided, however, that all such boards of health shall be under the superintending control of the state board.

CITY BOARD OF HEALTH.

§ 1. c. 34, 1893. **§ 254. City board, how constituted.** There is hereby established in each incorporated city in this state a board of health, which shall be constituted as follows: the mayor of such city shall at the first meeting of the city council in April in each year appoint four aldermen, who, together with the city engineer and the health officer as hereinafter provided, shall constitute a board of health and shall have and exercise the powers conferred upon such board by law and by the ordinances of such city.

§ 2. c. 34, 1893. **§ 255. Health officer. Duties. Salary.** At the first meeting of the city council in April of each odd numbered year there shall be appointed by the mayor and confirmed by the council one health officer, who shall hold his office for two years and until his successor is appointed and qualified. He shall be a competent physician in regular practice and shall perform such duties as may be devolved upon him by law or by the ordinances of such city. Before entering upon the duties of his office he shall take the usual oath of office and give a bond, to be approved by the city council, in the sum of one thousand dollars, conditioned for the faithful performance of his duties, and shall receive such compensation as the city council may determine.

§ 1. c. 90, 1893, am'd. **§ 256. Local boards of health. Duties of.** Each city board of health shall perform the duties and exercise the powers herein provided within the limits of the city for which it is established. Each county board of health and city board of health shall be known as the local board of health.

§ 2. c. 90, 1893. **§ 257. Board to make sanitary regulations.** Each local board of health, within its jurisdiction, may examine into all nuisances, sources of filth and causes of sickness, and make such regulations regarding the same as it may judge necessary for the public health and safety of the inhabitants, and every person who shall violate any published order or regulation made by any board of health, shall be guilty of a misdemeanor and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or both.

§ 3. c. 90, 1893. **§ 258. Regulations published.** Notice shall be given by each local board of health of all general orders and regulations made by them by publishing the same in some newspaper, if there is one published within the jurisdiction of such board; if there is none, then by posting such orders and regulations in five public places therein, and such publication of such orders and regulations shall be deemed a legal notice to all persons.

§ 4. c. 90, 1893. **§ 259. Nuisance. Owner to remove.** Whenever any nuisance, source of filth or cause of sickness is found on private property any member of the local board of health may order the owner or occupant thereof at his own expense to remove the same within

twenty-four hours, and such order may be given to such owner or occupant personally or left at his usual place of abode.

§ 260. **Board to act in default of owner.** Whenever such owner or occupant shall fail to comply with the order of such board, it may cause such nuisance, source of filth or cause of sickness to be removed and all expenses incurred thereby shall be paid by such owner or occupant, or by such other person as has caused or permitted the same. § 5, c. 90, 1898.

§ 261. **Complaint to justice, when.** Whenever any local board shall deem it necessary for the preservation of the health of the inhabitants within its jurisdiction to enter any building or vessel within such jurisdiction for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness and shall be refused entrance, any member of the board may make complaint under oath to a justice of the peace within the jurisdiction of the board, stating the facts in the case so far as he has knowledge thereof. § 6, c. 90, 1893.

§ 262. **Justice to issue warrant.** Such justice shall thereupon issue a warrant directed to the sheriff or other peace officer, commanding him to take sufficient aid and accompanied by at least one member of the board of health between the hours of sunrise and sunset to have such nuisance, source of filth or cause of sickness destroyed, removed or prevented under the direction of such of the board of health as accompany him. § 7, c. 90, 1893. am'd.

§ 263. **Any physician to report cases of contagion.** Whenever it shall come to the knowledge of any physician or other person that a contagious, epidemic or infectious disease exists within the jurisdiction of any local board, he shall immediately report to such board in writing the name and place of residence, if known, of every person afflicted with such disease, and if he is the attending physician of such person he shall report not less than twice in each week the condition of each person so afflicted and the state of such disease. § 8, c. 90, 1893.

§ 264. **Duty of physician in case of death.** It shall be the duty of each practicing physician in this state to report in writing to the local board of health the death of each of his patients, who shall have died within the jurisdiction of such board of any contagious, infectious or epidemic disease. Such report shall be made within twenty-four hours after such death and shall state the specific name and character of such disease. § 9, c. 90, 1893.

§ 265. **Keeper of house to report.** Each keeper of any private house, boarding house, lodging house, inn or hotel shall report in writing to the local board of health within whose jurisdiction the same may occur each case of contagious, infectious or epidemic disease which may occur in his house, inn or hotel; such report shall be made within twenty-four hours after the existence of such disease shall become known to such person, and shall state the name of each person afflicted with such disease and the nature thereof. § 10, c. 90, 1893.

§ 266. **Removal of sick person.** No person shall without a permit from the local or state board of health carry or cause to be removed from without this state to this state, or from one building to another within this state, or from or to any car or vessel, any person afflicted with any contagious, infectious or epidemic disease, or the body of any person who died of such disease. § 12, c. 90, 1893. am'd.

§ 13, c. 90, 1893.  
am'd.

§ 267. **Vaccination required, when.** Each parent or guardian having the care, custody or control of any minor or other person shall cause such minor or other person to be vaccinated.

§ 14, c. 90, 1893.  
am'd.

§ 268. **Duty of school officials.** No principal, superintendent or teacher of any school, and no parent or guardian of any minor child, shall permit any child having scarlet fever, diphtheria, smallpox, whooping-cough, measles or any other dangerous, infectious or contagious disease, or any child residing in any house in which any such disease exists or has recently existed to attend any public or private school until the local board of health shall have given permission therefor.

§ 15, c. 90, 1893.  
am'd.

§ 269. **Burial, case of contagion, regulations.** No person shall allow to be unburied the body of any human being for a longer time than four days, or, when death has been caused by an infectious or contagious disease, for a longer time than twenty-four hours after the death of such person without a permit from the local board of health, which permit shall specify the length of time during which such body may be unburied. In all cases where death has been caused by an infectious or contagious disease, the body shall, if directed by said board, be immediately disinfected as may be directed by it. If the body remains unburied for more than twenty-four hours it shall immediately be inclosed in a tightly sealed metallic coffin which shall not thereafter be opened and the funeral of such person shall be strictly private. In the removal of such body for burial, or otherwise, only such hearses or other vehicles shall be employed as may be authorized by said board, and no undertaker or other person shall bury or prepare for burial the body of any human being without a certificate signed by the attending physician or by the coroner, which certificate shall state the name, age, sex and place of abode and date of death of such deceased person, the name and duration of the disease of which such person died and whether or not such disease is contagious, and such certificate shall after the burial of such body be filed with the local board of health, and whenever any such dead body shall be presented to any common carrier within the state for transportation by such carrier, it shall be accompanied by a duplicate of such certificate signed by such attending physician or coroner: and no common carrier shall receive any such body for transportation unless such certificate shall state that the disease of which such person died is not contagious, which duplicate shall be securely attached to and remain upon the outside of the coffin or other receptacle containing such dead body.

§ 16, c. 90, 1893.  
am'd.

§ 270. **Infected persons. Removal of.** It shall be the duty of each local board of health, whenever it shall come to its knowledge that a case of smallpox, scarlet fever, diphtheria or other infectious or contagious disease exists within its jurisdiction, immediately to examine into the facts of the case and, if such disease appears to be of the character herein specified, such board shall adopt such quarantine and sanitary measures as in its judgment tend to prevent the spread of such disease, and may immediately cause any person infected with such disease to be removed to a separate house, if in the opinion of the health officer or superintendent of public health, such person can be so removed without danger to his health and, if such infected person cannot be removed without danger to his health, the local board shall make such quarantine regulations as it deems proper with reference to the house within which such infected person is, and

in such cases may cause the persons in the neighborhood to be removed and take such other measures as it deems necessary for the safety of the inhabitants, and shall immediately notify the state board of health of the existence and nature of such disease and of the measures adopted by it with reference thereto.

§ 271. **Temporary hospital.** Each local board of health may provide such temporary hospital or place of reception for persons afflicted with infectious or contagious diseases as it judges best for their accommodation and the safety of the inhabitants, and all such hospitals and all private houses or other places in which exists any infectious or contagious disease shall during the existence of such disease be under the control and subject to the regulations of the local board of health and all the inmates of such house or other place during the existence of such disease therein must conform to the regulations and obey the instructions of such local board with reference thereto. § 17, c. 90, 1893.

§ 272. **Infected clothing, etc. Destruction of.** Any local board of health may cause to be destroyed any bed or bedding, clothing, carpets or other articles which have been exposed to infection from such infectious or contagious disease and may allow reasonable compensation for the same, or may provide a proper place with all necessary apparatus and attendants for the disinfection of such articles and cause all such articles to be disinfected thereby, and may provide a carriage for the conveyance of such articles or of persons suffering from such contagious or infectious disease. § 18, c. 90, 1893.

§ 273. **Board has full power. Expenses.** Local boards of health may employ such persons as may be necessary to carry into effect the provisions of this article and the regulations established by them, and such physicians as they deem necessary and provide such necessaries of life as in their judgment shall be needed for the maintenance, welfare and comfort of persons afflicted with contagious and infectious diseases. All expenses incurred by any local board of health in carrying into effect the provisions of this article and in providing for the care and maintenance of such sick persons and all expenses incurred under any of the provisions of this article shall be audited and allowed by the board incurring the same; such expenses, in case of city boards of health, shall be certified to the city auditor and paid out of the general fund of the city and, in case of county boards of health, shall be certified to the county auditor and paid out of the general fund of the county; all expenses incurred by such boards of health for the care, medical attendance or support of any such sick person shall be a charge upon such person and upon the person legally chargeable with the support of such person, and may be collected by suit in the name of the county or city, which shall have incurred such expense; provided, that, if a physician is called at the instance of such local board of health to attend a person infected with a contagious or infectious disease, it shall be at the expense of such city or county. § 19, c. 90, 1893.

§ 274. **Neglect of duty herein. Penalty.** Any health officer, superintendent of public health or any member of any local board of health, who shall neglect or refuse to perform any of the duties required to be performed by him under the provisions of this article, and any person, who fails to comply with, or violates any of the provisions of this article, or neglects or refuses to conform to any rules, regulations or measures adopted by the local board of health § 20, c. 90, 1893. am'd.

within whose jurisdiction he shall at the time be and which shall have been published or shall have come to his knowledge, or refuses or neglects promptly to obey any orders, directions or instructions given to him by such board of health, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten nor more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or by both.

ARTICLE 6. — STATE BOARD OF MEDICAL EXAMINERS.

§ 1. c. 93, 1890.  
am'd.

**§ 275. Board of medical examiners. How appointed. Qualifications.** The governor shall appoint a state board of medical examiners consisting of nine members, of whom eight shall be practicing physicians, graduates of reputable medical colleges, who shall hold their office for three years after such appointment and until their successors are appointed and qualified. Two members of such board shall be homeopathic physicians and one a lawyer.

§ 2. c. 93, 1890.  
am'd.

**§ 276. Officers. Meetings for examinations. Record of licenses.** Such board shall elect a president and treasurer, and shall have a seal. The president and secretary shall have power to administer oaths. The board shall hold meetings for examinations at such place as it may designate on the first Tuesday in January, April, July and October of each year, and such special meetings as it may from time to time appoint. The board shall keep a record of all its proceedings, and also a register of applicants for license together with their ages, time spent in the study of medicine and the name and location of all institutions granting to such applicants degrees or certificates of attendance on lectures in medicine or surgery. Such register shall also show whether the applicant was rejected or licensed under this article. Said books and register shall be prima facie evidence of all matters therein recorded.

§ 3. c. 93, 1890.  
am'd.

**§ 277. Examinations, how conducted. Licenses, when revocable.** All persons before commencing the practice of medicine, surgery or obstetrics in this state shall apply to the board for a license so to do, and such applicant shall submit to an examination in the following branches: anatomy, physiology, chemistry, histology, materia medica, therapeutics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence and such other branches as the board deems advisable, and present evidence of having attended three courses of lectures of at least six months each; the board shall cause such examination to be practical and scientific and sufficient to test the candidate's fitness to practice medicine, surgery and obstetrics. If such applicant passes the prescribed examination the board shall grant him a license to practice medicine, surgery and obstetrics in this state, which license shall be signed by the president and secretary of the board and attested by the seal thereof. The fee for such examination shall be twenty dollars, to be applied by the board toward paying the expenses thereof. The board may revoke or refuse a license for dishonorable or immoral conduct, chronic or persistent inebriety or for the practice of criminal abortion. In complaints for violating the provisions of this section the accused shall be furnished with a copy of the complaint and given a hearing before the board in person or by attorney.

§ 4. c. 93, 1890.  
am'd.

**§ 278. Licenses to be filed.** The person receiving a license shall file the same or a copy thereof, with the register of deeds of the county where he resides, and the register of deeds shall file the same.

§ 279. **Who exempt from provisions of this article.** This article shall not apply to surgeons of the United States army or navy, physicians or surgeons in actual consultation from other states or territories or actual medical students practicing medicine under the direct supervision of a preceptor. § 5, c. 93, 1890. am'd.

§ 280. **Penalty for practicing without license.** Any person violating the provisions of this article is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not less than fifty nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or by both. § 6, c. 93, 1890.

§ 281. **Certain dead bodies may be used for dissecting.** It shall be lawful for any medical association, regular physician and surgeon or the professors of any medical college in this state to receive the body of any person executed pursuant to sentence of law and of all persons dying in the penitentiary or county jails while under sentence of law for crime, to be used within the state for the advancement of anatomical science, preference being given to medical colleges established by law within this state. § 1, c. 92, 1890. am'd.

§ 282. **Remains to be interred.** Every physician, surgeon or professor before receiving any such body shall give to the officer surrendering the same a sufficient bond conditioned that such body shall be used only for the promotion of anatomical science within this state and so as not to outrage public feeling; and that after having been so used the remains thereof shall be interred in some public cemetery. § 2, c. 92, 1890. am'd.

§ 283. **When body not to be used for dissecting.** If the deceased during his last illness requested to be buried or, if within thirty-six hours after his death any friend or relative asks to have the body buried, the body shall not be so surrendered, but shall be buried. § 3, c. 92, 1890. am'd.

#### ARTICLE 7.—STATE BOARD OF PHARMACY.

§ 284. **Board of pharmacy, how appointed. Vacancies.** The state board of pharmacy shall consist of three members, who shall hold office for three years and until their successors are appointed and qualified. Annually or whenever a vacancy occurs in such board the governor shall, upon the recommendation of the North Dakota pharmaceutical association, appoint some member thereof as a member of the board or to fill a vacancy as the case may be. § 4, c. 108, 1890. am'd.

§ 285. **Organization of board. Examinations.** Such board shall within thirty days after the appointment and qualification of a new member for the full term, meet and organize by the selection of a president and secretary from its own members, who shall be elected for the term of one year and perform the duties prescribed by the board. It shall be the duty of the board to examine all applications for registration submitted in proper form; to grant certificates of registration to such persons as may be entitled to the same under the provisions of this article; to cause the prosecution of all persons violating its provisions; to report annually to the governor and to the North Dakota pharmaceutical association upon the condition of pharmacy in the state, which report shall also set forth the proceedings of the board for the year, as well as the names of all pharmacists registered. The board shall hold at least two and not more than four meetings each year for the examination of applicants for registration and the transaction of such other business as shall pertain to its

duties, and it shall give at least thirty days' public notice of the time and place of such meeting in three pharmaceutical journals of general circulation in the state. The board shall make rules for the proper execution of its duties and shall keep a book of registration, in which shall be entered the names and places of business of all persons registered and the facts on which such registration was granted. Two members of the board shall constitute a quorum. The board shall have power to cancel the certificate of any registered pharmacist for intemperance, incompetency or illegal sale of intoxicating liquors, upon the sworn complaint of three reputable citizens, charging any registered pharmacist with intemperance, incompetency or the illegal sale of intoxicating liquors. The board shall appoint a time and place for hearing such charges and shall give the pharmacist so charged at least ten days notice by mail of the time and place of the hearing, when he shall appear and answer such charges. If the board finds any of such charges to be true, they shall forthwith cancel the certificate of such pharmacist and his registry as a pharmacist.

§ 2, c. 108, 1890.  
am'd.

**§ 286. Who entitled to registry.** To entitle a person to registry he must be a graduate in pharmacy from a college approved by the board or have been engaged for a period of not less than four years in the preparation of physicians' prescriptions.

§ 3, c. 108, 1890.  
§ 3, c. 80, 1893.

**§ 287. Certificates. Fees.** Each applicant for registration shall pay to the secretary the sum of five dollars, before examination, provided, that in case of a failure to pass a satisfactory examination, he may be re-examined at any regular meeting of the board upon payment of a fee of three dollars. Registration as a pharmacist entitles the person registered to membership in the North Dakota pharmaceutical association.

§ 9, c. 108, 1890.  
am'd.

**§ 288. Registered assistants, qualifications of. Fees.** Any assistant in pharmacy over the age of eighteen years, not having the qualifications of a registered pharmacist, who shall have been engaged two years in assisting in the compounding of prescriptions, shall upon furnishing satisfactory evidence thereof to the board and upon payment of a fee of one dollar be entitled to a certificate as a registered assistant. Annually thereafter during the time he shall continue in such duties he shall pay to the secretary the sum of fifty cents for which he shall receive a renewal of such certificate.

10, c. 108, 1890.  
4, c. 80, 1893.  
am'd.

**§ 289. Registration fees. Certificates to be posted.** Each registered pharmacist engaged in the practice of his profession shall, annually, during the time he shall continue such practice, on such date as the board of pharmacy shall determine, pay a registration fee, to be fixed by the board, in no case exceeding three dollars, upon which he shall receive a renewal of such registration and of membership in the North Dakota pharmaceutical association. Each certificate of registration and each renewal thereof shall be conspicuously posted at the place of business of the holder.

11, c. 108, 1890.  
5, c. 80, 1893.  
am'd.

**§ 290. Salaries. Board to make reports.** The secretary of the state board of pharmacy shall receive a salary which shall be determined by such board; he shall also receive his traveling and other expenses incurred in the performance of his official duty. The other members of such board shall each receive the sum of five dollars for each day actually engaged in its service, and all legitimate and necessary expenses incurred in attending the meetings of the board or in performing other official duties. Such expenses shall be paid only from the moneys received by the board under the provis-



ions of this article, and no part of the salary or other expenses of the board shall be paid out of the state treasury. Any moneys remaining after the payment of the salaries and expenses herein provided for shall be held by the secretary of the board as a special fund for meeting the expenses of the board and of the annual meeting and report of the North Dakota pharmaceutical association and other necessary expenses that may be incurred by such association. The secretary of the board shall give such bonds as the board shall from time to time require. The board shall in its annual report render an account of all moneys received and disbursed by it.

§ 291. **Forfeited membership. How renewed.** Nothing in this article shall be so construed as to prevent any person, who has once been a member by examination, and who may have forfeited his membership by non-payment of fees, from renewing his registration within two years by paying such fees without examination.

§ 16, c. 108, 1890.  
am'd.

#### ARTICLE 8.—STATE BOARD OF DENTAL EXAMINERS.

§ 292. **Who may practice. License.** It shall not be lawful for any person to practice dentistry in this state without having a license so to do from the board of dental examiners.

§ 1, c. 58, 1890.  
am'd.

§ 293. **Board. How constituted.** The state board of dental examiners, consisting of five members, heretofore created, shall continue to be the state board of dental examiners. Upon the expiration of each member's term of office the governor shall appoint his successor, who shall hold office for five years and until his successor is appointed and qualified. All vacancies in such board shall be filled by appointment by the governor. No person shall be eligible to appointment on such board who is not a practicing dentist in this state.

§ 2, c. 58, 1890.  
am'd.

§ 294. **Power to make rules. Officers. Records.** Such board shall have power to make reasonable rules and regulations for carrying into effect the provisions of this article. It shall choose one of its members president and one secretary thereof, and shall hold regular meetings twice in each year, and such special meetings as the board may by its rules provide. A majority of the members of the board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. The board shall keep full and complete minutes of its proceedings and of its receipts and disbursements and a full and accurate list of all persons licensed and registered by it, and such records together with the list of licensed and registered dentists shall be public records, and shall at all reasonable times be open to public inspection. Such records, or a transcript of the same, or any part thereof, under the seal of the board, duly certified by the secretary thereof, shall be competent evidence of the facts therein stated. A certificate of the secretary under the seal of the board, stating that any person is or is not a registered dentist, shall be prima facie evidence of such fact. The president and secretary of the board shall have authority to administer oaths, and the board shall have power to hear testimony as to all matters relating to the duties imposed upon it by law. If any member of the board shall without cause absent himself from two of its regular meetings consecutively his office shall be deemed vacant and such vacancy shall be filled by appointment as hereinbefore provided.

§ 3, c. 58, 1890.  
am'd.

§ 4, c. 58, 1890.  
am'd.

**§ 295. Certificate of registration. Fee.** It shall be the duty of each person licensed by the board to practice dentistry in this state to procure from the secretary of the board, on or before July first, annually, a certificate of registration. Such certificate shall be issued by the secretary upon payment of a fee to be fixed by the board, not exceeding the sum of two dollars. All certificates so issued shall be prima facie evidence of the right of the holder to practice dentistry in this state during the time for which they were issued. Any certificate or license granted by the board may be revoked by it upon conviction of the party holding it of a violation of any of the provisions of this article. Every person receiving such certificate shall conspicuously expose the same in his place of business.

§ 5, c. 58, 1890.  
am'd.

**§ 296. Examination and qualification of practitioners.** Any person desiring to begin the practice of dentistry in this state must in order to be eligible for examination furnish to the board satisfactory evidence that he has been engaged in the active practice of dentistry for at least three years immediately preceding such examination, or that he has pursued the study of dentistry in the office or under the supervision of a regularly practicing dentist for such period. He shall be examined by the board with reference to his knowledge and skill in dentistry, and if upon such examination such person is found in the judgment of said board to possess suitable qualifications to practice dentistry, and, if the board is satisfied that the applicant has a good moral character, it shall issue to such applicant a license to practice dentistry in accordance with the provisions of this article; provided, that any person desiring to commence the practice of dentistry in this state and having a diploma issued by any reputable dental college or dental department of any university shall, in person, present the same to the state board of examiners, and the board being satisfied as to the genuineness of the diploma, may without examination issue a license to such person to practice dentistry in this state on payment of the license fee hereinafter provided for. All licenses issued by the board shall be signed by the several members thereof, and be attested by its president and secretary under the seal of the board.

§ 7, c. 58, 1890.  
am'd.

**§ 297. Who regarded as practicing dentistry.** A person shall be deemed to be practicing dentistry within the meaning of this article, who shall perform operations or parts of operations of any kind or treat diseases or lesions of the human tooth or jaw or correct malpositions thereof. But nothing in this article contained shall be so construed as to apply to acts of bona fide students of dentistry done in the pursuit of clinical advantages under the direct supervision of a preceptor or a licensed dentist in this state during the period of their enrollment in a dental college and attendance upon a regular course in such college, or to prevent any legally qualified resident physician and surgeon from extracting teeth, or to prevent any person from using any domestic remedy or other means for the relief of pain.

§ 8, c. 58, 1890.  
am'd.

**§ 298. Fee for examination. Annual reports, etc.** The board of dental examiners may require each person applying to it for examination to pay a fee not exceeding ten dollars, which shall in no case be returned. If the applicant shall receive a license to practice, he shall thereupon pay the further sum of five dollars, which shall also entitle him to receive a certificate of registration for the current

or registration year in which such license is issued. Thereafter he shall annually obtain a certificate as hereinbefore provided. Out of the funds received by the board each member may be paid the sum of five dollars for each day actually engaged in the duties of his office, and four cents per mile for the distance necessarily traveled in going to or returning from meetings of the board. Such expenses shall be paid from the fees received by the board under the provisions of this article and no part of the salary or other expenses of the board, except the printing of the annual report, shall be paid out of the state treasury. All moneys remaining after the payment of such per diem allowance and mileage as above provided for shall be held by the secretary as a special fund for defraying the expenses of the board in carrying out the provisions of this article. The secretary shall give a bond in such sum and with such conditions as the board may from time to time direct. The board shall make an annual report of its proceedings to the governor on or before the fifteenth day of November in each year, which report shall contain an account of all moneys received and disbursed by the board during the preceding year.

§ 299. **Penalty for violation of this article.** Any person violating any of the provisions of this article is guilty of a misdemeanor, and upon conviction thereof is punishable by a fine, not exceeding three hundred dollars, or by imprisonment in the county jail, not exceeding sixty days, or by both. § 9, c. 58, 1890. am'd.

§ 300. **Penalty for false pretense.** Any person who shall knowingly or falsely claim or pretend to have or hold a certificate of registration, diploma or degree granted by a society or by the board of dental examiners, or who shall falsely and with intent to deceive the public claim or pretend to be a graduate from any dental college, not being such graduate, is guilty of a misdemeanor, and upon conviction is punishable as provided in section 299. § 10, c. 58, 1890.

§ 301. **Penalty for practicing under false name, etc.** Any person who shall be licensed under the provisions of this article and who shall practice dentistry under a false name with intent to deceive shall be liable to have his license revoked upon twenty days' notice of such proposed revocation and of the time and place of considering such revocation by the state board of dental examiners. Any person, who after revocation of his license continues to practice dentistry in this state is guilty of a misdemeanor and upon conviction thereof is punishable as provided in section 299. § 11, c. 58, 1890. am'd.

## CHAPTER 5.

### STATE OFFICERS AND BOARDS.

#### ARTICLE 1.—MISCELLANEOUS PROVISIONS.

§ 302. **Beginning and end of fiscal year.** The fiscal year for the state shall commence the first day of July and end on the thirtieth day of June in each year, and all reports required annually or biennially by any state officer shall be made to and include the thirtieth day of June preceding, and all accounts of said officers shall be closed and balanced to that date. § 1, c. 67, 1893.

§ 303. **Appropriations, when available.** All appropriations made for the maintenance of the state institutions or other purposes § 2, c. 67, 1893.

by the legislative assembly shall become available on the first day of July next succeeding their enactment, unless otherwise specially prescribed by law.

§ 1, c. 118, 1890.  
am'd.     **§ 304. Penalty for failure to make reports.** Any public officer who is required to make an official report to any other officer, or board, who willfully neglects to make such report at the time and substantially in the manner required by law, shall forfeit and pay to the state a penalty of not less than twenty dollars nor more than five hundred dollars, to be recovered from such delinquent officer, or from him and the sureties upon his official bond.

§ 2, c. 118, 1890.     **§ 305. Attorney general to prosecute.** Upon the willful neglect of any public officer to make any report required by law it shall be the duty of the officer or board to whom such report should be made promptly to notify the attorney general of such failure to report, whose duty it shall be to investigate the neglect of duty complained of; and, if in his opinion, the officer has not a sufficient excuse for such failure, the attorney general shall prosecute such officer for the recovery of the penalty above provided.

§ 1, c. 98, 1891.     **§ 306. Penalty.** Any county, city, village, civil township, school township or school district officer, who is required by law to make an official report to any other county, city, village, civil township, school township or school district officer, board, tribunal or state officer, and who willfully neglects to make such report, or fails to perform such official duties, shall forfeit and pay to the state a penalty of not less than ten nor more than two hundred dollars, to be recovered from such delinquent officer, or from him and the sureties upon his official bond, in a civil action to be brought by the state's attorney in any court of record having jurisdiction.

§ 2, c. 98, 1891.     **§ 307. Examination of records. State's attorney to prosecute.** It shall be the duty of the board of county commissioners and the state's attorney in each county to examine the records of the several county officers at the end of the officer's term of office to see that they have been properly kept. Any failure must be remedied or it shall become the duty of the state's attorney to prosecute any such officer for neglect as provided in the last section. It shall also be the duty of the city council, board of aldermen, village trustees, civil township supervisors, school township or school district board, as the case may be, to examine the records of their several officers in a like manner, or upon complaint by the proper board the state's attorney shall prosecute as provided in the last section.

§ 3, c. 98, 1891.     **§ 308. Blanks to be furnished.** It shall be the duty of the county, city, village, civil township, school township or school district officer to provide at the expense of the county, city, village, civil township, school township or school district such blanks and records as are necessary for making the proper record and the transaction of any official business connected with his office.

ARTICLE 2. — UNIFORM SYSTEM OF ACCOUNTING.

§ 2, c. 182, 1890.  
am'd.     **§ 309. State institutions to designate accounting officer. Duties.** The managing board of each of the state institutions shall designate an accounting officer, whose duty it shall be to keep or supervise the financial accounts of the institution and to perform such other duties as shall be prescribed by law or by such managing board. They shall also designate either the accounting officer or some other

officer of the institution to act as a purchasing agent, whose duty it shall be to purchase all goods and supplies needed for the institution under such rules and regulations as the managing board shall prescribe.

§ 310. **Institution treasurer. Duties of.** The managing board of each state institution shall also appoint an institution treasurer, which treasurer shall be either some trustworthy person residing in the city or village at which the institution is located or some solvent national or state bank in such city or village. Such treasurer shall give a bond in such sum as the managing board may require, to be approved by the board and to be subject to the approval of the governor. It shall be the duty of such treasurer to hold and safely keep all public funds belonging to the institution which may come into his hands from any source and to pay out the same only on written orders signed by the accounting officer of the institution and countersigned by a member of the managing board, who shall have been authorized by a vote of the board to sign such orders. § 3, c. 182, 1890.

§ 311. **Care and custody of funds belonging to inmates.** It shall be the duty of each superintendent of any state institution, when the care and custody of any funds belonging to inmates thereof is by law devolved upon him, to keep accurate accounts of such funds in books provided for that purpose, and to pay out such funds under such rules and regulations as may be prescribed by law or by the board of management, taking proper vouchers therefor in all cases; and every such superintendent shall give a bond in such sum as may be required by law, or may be prescribed by the board of managers of such institution, to be subject to the approval of the state examiner, conditioned for the faithful performance of his duties and a due accounting for the funds intrusted to his care. § 4, c. 182, 1890. am'd.

§ 312. **Funds belonging to institutions to be paid to superintendent.** Each officer and employee of the several institutions shall pay over to the superintendent of the institution without delay any funds which may come into his hands belonging to any inmates of the institution and of which the superintendent is the legal custodian, and pay over to the accounting officer of the institution without delay any funds which may come into his hands belonging to the institution. § 5 a. c. 182, 1890.

§ 313. **Duty of accounting officer.** The accounting officer of each institution at the close of each month or oftener shall pay over to the institution treasurer all institution funds which may have come into his hands from sales of public property, board of inmates, labor of inmates or from other sources, and at the close of each fiscal quarter to draw an order on the institution treasurer in favor of the state treasurer for the amount of all such miscellaneous receipts, and at the same time to forward to the state auditor a statement of the amount of the same and the sources from which they have arisen. § 5 b. c. 182, 1890.

§ 314. **Duty of state auditor and treasurer.** It shall be the duty of the state auditor upon receiving such statement to place in the hands of the state treasurer a draft for the amount upon the institution treasurer, specifying the fund to which the same is to be credited, and upon payment of such draft to place the amount so received to the credit of such institution, adding to it any appropriation that may have been previously made by the legislative assembly for the institution, distributing it to the several appropriations from which it may have arisen, or to the current expense appropriation § 5 c. c. 182, 1890.

according to his discretion; provided, that the miscellaneous receipts of the penitentiary and the state reform school shall be paid over to the state treasurer monthly instead of quarterly in like manner as herein provided.

§ 6. c. 182, 1890.  
am'd.

**§ 315. Duplicate monthly pay rolls. Bills for supplies, etc.** The accounting officer of each institution shall prepare a duplicate monthly pay roll or pay rolls, showing the services rendered by each officer and employee of the institution, which pay roll shall contain the receipt of such officers and employees for the orders issued to them in payment for their services. Services rendered or labor performed by persons other than officers or employees shall be accounted for and proper vouchers made. The accounting officer shall require all persons selling goods or supplies to the institution to furnish with such goods, when delivered, bills or invoices in duplicate, and he may require persons, who furnished goods at intervals during the month, to furnish also a detailed statement in duplicate at the close of the month. Such bills and invoices shall, whenever practicable, be made upon the bill heads or blanks used by such persons in their business.

§ 7. c. 182, 1890.

**§ 316. Manner of filing bills, etc. Duplicates sent to state auditor.** Each of the original and duplicate bills mentioned in the last section shall be inclosed in an envelope or jacket, on one side of which shall be a classification of the items contained in the bill, and on the other side a receipt in the following form: Received on the ..... day of ..... from the ..... (here insert the name of the accounting officer) of the ..... (here insert the name of the institution) an order on the treasurer of the ..... for the sum of ..... dollars, in payment of the within account. Any pay rolls and vouchers for services rendered or labor performed shall be inclosed in similar envelopes or jackets. One of the duplicate pay rolls or bills with the accompanying receipts shall be retained by the accounting officer in the files of the institution and the other shall be sent to the state auditor within thirty days after the issuance of an order on the institution treasurer for the payment of the same.

§ 8. c. 182, 1890.

**§ 317. Duty of storekeeper.** It shall be the duty of the storekeeper of each institution, or some person to be designated by the superintendent, to check off all goods and supplies, when received, by the invoices; to certify thereon the quantity and condition of the same, and to notify the superintendent or the accounting officer forthwith, in case such goods or supplies do not appear to be of the kind or the quantity purchased or bargained for. In case goods are received without an invoice it shall be the duty of such storekeeper or designated person to make a memorandum bill of such goods and certify thereon as herein required.

§ 9. c. 182, 1890.

**§ 318. Expense lists to be prepared monthly by accounting officer.** The accounting officer at the close of each month shall make, or cause to be made, an expense list for expenses incurred during the month under appropriations for current expenses, and a separate expense list for expenses incurred under appropriations for other purposes, showing the name of each person rendering service or furnishing supplies, the nature of the service rendered and at what rate, the quantity, kind, price and cost of supplies furnished, and the amount to which each person is entitled by law; provided, that the state auditor may in his discretion allow items of the same class amounting to less than one dollar each, except food items, to be con-

solidated on the expense list as "sundries." Such expense list shall be audited by the managing board or a committee of the same, and shall be certified by the accounting officer of each institution and a member of the managing board to be designated by the board, and shall be forwarded to the state auditor by the accounting officer, not later than the eleventh day of the succeeding month.

**§ 319. State auditor to draw warrants on receipt of expense lists.** § 10, c. 182, 1890. On receipt of such certified expense list the state auditor shall examine, adjust and approve, suspend or reject the same, and on or before the sixteenth day of each month draw his warrants on the state treasurer for the amounts due thereon to each institution, and no money shall be paid out of the state treasury for the use of such institution except on expense lists duly certified; provided, that the state auditor may in his discretion draw his warrants for an amount not exceeding twenty per cent in addition to the amount of the expense list, to be used for the immediate payment of such accounts as he may authorize to be so paid; such payments to be properly accounted for on the next monthly expense list.

**§ 320. When auditor to cancel unexpended appropriations.** § 11, c. 182, 1890. The state auditor shall at the close of each biennial period cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn for the period of two years after the expiration of the biennial period during which they became available under the law; provided, that the governor, secretary of state and attorney general may continue such appropriation or balances in force temporarily upon recommendation of the state auditor.

**§ 321. Appropriation of miscellaneous receipts.** § 12, c. 182, 1890. There is hereby appropriated for the use of the several institutions all the funds in the state treasury derived from miscellaneous receipts under sections 312 and 313.

**§ 322. Auditor to keep account with each organized county.** § 1, c. 183, 1890. The state auditor shall keep an account with each organized county of the state in which each county shall be charged with the amount of delinquent tax now due the state and with all sums hereafter levied in each county for state purposes; and credited with all sums paid into the state treasury on account of such taxes.

**§ 323. County auditors to furnish abstract of tax list.** § 2, c. 183, 1890. He shall require the county auditors to furnish him with an abstract of the tax lists of their respective counties when the same are completed on such blanks as he shall prescribe.

**§ 324. Monthly statements of taxes collected. County treasurer to furnish.** § 3, c. 183, 1890.  
§ 1, c. 1, 1891.  
am'd. He shall require the several county treasurers to furnish him with a statement, attested by the county auditor, on the fifteenth day of each month, showing the amount of state taxes collected during the preceding calendar month, and the October statement shall be an abstract of the total receipts by the county treasurer for the preceding year.

**§ 325. Auditor to deliver to state treasurer order on county treasurer.** § 4, c. 183, 1890. The state auditor shall immediately after receiving the statement provided for in the preceding section draw and deliver to the state treasurer an order on each county treasurer for the amount so certified as collected for the state, and charge the state treasurer with the same, giving the county credit for the amount and sending to the county auditor of each county a duplicate of such order or draft.

§ 5, c. 183, 1890. **§ 326. State treasurer to notify county treasurer.** The state treasurer shall notify each county treasurer of the amount of such draft or order and designate the manner in which the money shall be forwarded to him, and upon receipt of the same shall forward such draft or order to the county treasurer with his indorsement, and such draft or order shall be the county treasurer's receipt for the amount stated.

§ 7, c. 183, 1890.  
§ 2, c. 1, 1891. **§ 327. Record of fees to be kept by state officers. Reports.** Every state officer, required by section 84 of the constitution of this state to cover into the state treasury all fees and profits arising from such office, shall keep a record of all such fees or profits in a book kept for that purpose, which book shall be the property of the state. They shall report to the state treasurer quarterly the amount of fees or profits received, verified by oath, and at the same time pay the amount of such fees or profits to the treasurer, taking duplicate receipts therefor, one of which shall be filed with the state auditor forthwith, and the auditor shall charge the treasurer with the amount thereof.

§ 8, c. 183, 1890. **§ 328. Apportionment of moneys belonging to counties, how made.** The apportionment of all moneys paid into the state treasury, any part of which is required by law to be paid to the several counties or to municipal corporations, shall be made by the auditor and treasurer, and each shall keep an account with such counties or corporations, crediting them with all such apportionments and charging them with all sums paid to them. The auditor shall draw an order on the state treasurer for the amount so credited, and forward the same to the county treasurer of such county or the clerk of such corporation, and at the same time send a written notice to the county auditor or clerk of such corporation, stating the amount so apportioned.

§ 9, c. 183, 1890. **§ 329. Moneys, how paid from treasury.** Moneys shall be paid from the state treasury only upon the warrant or order of the auditor, and each warrant shall specify upon what fund or from what apportionment it is to be paid; provided, however, that the treasurer may redeem outstanding bonds or pay interest on bonds when due without the auditor's warrant, retaining such bond or interest coupon as his voucher for such payment until the next succeeding settlement.

§ 10, c. 183, 1890. **§ 330. Account current between auditor and treasurer.** The auditor shall keep an accurate account current with the treasurer, charging him with all moneys received and crediting him with all sums paid out upon the surrender of the vouchers for such payments.

§ 11, c. 183, 1890. **§ 331. Monthly statements.** The treasurer and auditor shall on the first day of each month have a full settlement of the business of the preceding month, at which settlement the treasurer shall turn over to the auditor all vouchers for payments made by him, taking the auditor's receipt for the same.

§ 12, c. 183, 1890. **§ 332. Separate accounts with the several appropriations.** The auditor and treasurer shall each keep a separate account with the several appropriations made by the legislative assembly, and also with each fund created by the sale of bonds and each permanent or current fund created by law.

§ 13, c. 183, 1890. **§ 333. Auditor and treasurer to procure books, blanks, etc.** The auditor and treasurer are authorized and empowered to procure the necessary books and blanks to enable them to comply with the provisions of this article.



## ARTICLE 3.—CLERK HIRE FOR STATE OFFICES.

§ 334. **Clerk hire allowed and fixed.** The following amounts are hereby fixed and allowed for clerk hire for the several state offices hereinafter mentioned, which sums shall be paid in monthly payments on the warrant of the state auditor: governor's office, two thousand nine hundred dollars per annum; secretary of state's office, two thousand five hundred dollars per annum; treasurer's office, one thousand five hundred dollars per annum; auditor's office, two thousand five hundred dollars per annum; attorney general's office, one thousand five hundred dollars per annum; superintendent of public instruction's office, one thousand eight hundred dollars per annum; commissioner of insurance's office, two thousand one hundred dollars per annum; commissioner of agriculture and labor's office, one thousand five hundred dollars per annum; secretary of the board of railroad commissioners, one thousand dollars per annum; provided, that all clerical appointments shall first be referred to the governor for his approval. § 1. c. 9, 1891. am'd.

§ 335. **Annual appropriation.** There is hereby annually appropriated out of any money in the state treasury not otherwise appropriated a sum sufficient to carry out the provisions of this article. § 2. c. 9, 1891.

## ARTICLE 4.—STANDING APPROPRIATIONS.

## FOR SALARIES OF STATE OFFICERS.

§ 336. **Annual appropriation.** There is hereby annually appropriated out of any funds in the state treasury not otherwise appropriated such sums as may be necessary to pay the salaries of the various state officers. § 1. c. 10, 1891.

§ 337. **Salaries payable monthly.** Unless otherwise provided by law the state auditor is directed to draw his warrant for such salaries monthly as the same become due. § 2. c. 10, 1891.

## FOR MAINTENANCE OF PUBLIC OFFICES.

§ 338. **Supplies for public offices. Appropriation.** The board of trustees of public property are authorized and empowered to provide all necessary furniture, fuel, lights, stationery, postage and all other necessary supplies for the state offices and to make all necessary repairs upon the capitol building and executive mansion and the public grounds and parks connected therewith, and there is hereby annually appropriated out of any money in the state treasury not otherwise appropriated the sum of seven thousand dollars, or so much thereof as may be necessary to carry out the provisions of this section, and the state auditor is empowered to draw his warrant for such sums as he shall deem to be due on accounts or claims against such appropriation upon approval thereof by the governor, and the state treasurer is hereby directed to pay such warrants from the general fund of the state. § 1. c. 8, 1890. § 1. c. 11, 1891. am'd.

CHAPTER 6.

OFFICES AND OFFICERS.

ARTICLE 1.—QUALIFICATION FOR OFFICE.

§ 1, c. 5, Pol. C.

§ 339. **Civil officers to qualify.** Except as otherwise specially provided, all civil officers shall qualify substantially in the manner and form herein set forth.

§ 2, c. 2, Pol. C.  
§ 24, c. 47, 1887,  
am'd.

§ 340. **Certain officers to give bonds.** Each civil officer elected by the people or appointed by the governor or by any other authority provided by law, except the governor and the officers and members of the legislative assembly, judges of the supreme and district courts, county commissioners, court stenographers, the mayor and aldermen in cities, the president and trustees in villages, but including township treasurers, clerks, justices of the peace and constables, shall, before entering on his duties, give a bond conditioned for the faithful and impartial discharge of the duties of his office, (naming it fully), and render a true account of all moneys and property of every kind that shall come into his hands as such officer and pay over and deliver the same according to law.

§ 1, c. 105, 1840,  
am'd.

§ 341. **Oath of civil officers.** Each civil officer in this state before entering upon the duties of his office shall take and subscribe the oath prescribed in section 211 of the constitution. Such oath shall be indorsed upon the back of or attached to his bond, in case of an officer required to give a bond, or indorsed upon the back of or attached to the commission, appointment or certificate of election, in case of an officer not required to give a bond.

§ 5, c. 5, Pol. C.  
§ 1, c. 82, 1890,  
am'd.

§ 342. **Approval of bonds.** The bonds of all state and district officers shall be given to the state, shall be approved by the governor as to sufficiency and by the attorney general as to form and such bonds and a duplicate original of the oaths of all other such officers shall be deposited in the office of the secretary of state. The secretary of state shall keep a book in which shall be made a correct copy of such bond, which book shall be called the "bond record" and, when such bonds have been recorded, they shall be deposited with and kept on file in the office of the state treasurer, except the bond of the state treasurer, which shall be deposited with and kept on file in the office of the state auditor. The secretary of state and state treasurer on receipt of such bonds shall issue a receipt therefor and such receipt shall be filed in the office of the state auditor. The bonds of all county, township and municipal officers shall be given to the county; those of all county and municipal officers under the county shall be approved by the state's attorney as to form and by the board of county commissioners as to sufficiency, and such bonds and a duplicate original of the oaths of office of all other such officers shall be filed with the county auditor, except the bond and oath of such auditor, which shall be filed with the clerk of the district court for the county or judicial subdivision. The bonds of township officers shall be approved by the chairman of the board of supervisors of the township.

§ 1, c. 6, 1879.  
§ 38, sub. c. 1,  
c. 112, 1883.  
§ 1, c. 161, 1897.  
§ 31, c. 132, 1890.

§ 343. **Amounts of bonds of various officers.** The bond of each state officer required to give a bond, the amount of which is not otherwise provided by law, shall be in the penal sum of five thousand dollars; of the county auditor, register of deeds and clerk of the district court in the penal sum of ten thousand dollars each, except in counties having a population of less than ten thousand inhabitants,

in which counties such bonds shall be in the penal sum of five thousand dollars each; of the state's attorney and county judge in the penal sum of two thousand dollars each; of the county superintendent of schools, justices of the peace, constables and notaries public in the sum of five hundred dollars each. The bond of the sheriff, coroner and county treasurer shall each be in a penal sum to be fixed by the board of county commissioners; but that of the county treasurer shall not be in a less penal sum than four thousand dollars, except when the total amount of taxes to be collected by him in any year is less than two thousand dollars, then in double the amount of taxes to be collected; but in no case shall the bond of the county treasurer be less than one thousand dollars.

**§ 344. Additional bond may be required of county treasurer.** § 97, c.28, Pol.C.  
The board of county commissioners may require the county treasurer to give additional sureties whenever in the opinion of the board the existing security shall have become insufficient; and such board is authorized and empowered to require from the county treasurer an additional bond as required by law with good and sufficient sureties in such sum as the board may direct, whenever in their opinion more money shall have passed or is about to pass into the hands of such treasurer than is or would be recovered by the penalty in the previous bond.

**§ 345. Failure to give additional bond. Effect.** § 98, c.28, Pol.C.  
If any county treasurer shall fail or refuse to give such additional bond or sureties for ten days from and after the day on which such board shall require him so to do, his office shall become vacant and another treasurer shall be appointed according to law.

**§ 346. Bonds of township and school district officers.** § 1, c. 94, 1893. am'd.  
It shall be the duty of each county auditor on or before the first day of March in each year to procure the proper blank bonds and send them to the clerk of each township and school district, and all such officers required by law to give bonds shall procure such bonds from the proper clerk; and shall immediately after the execution and approval thereof hand the same to the clerk of the township, whose duty it shall be forthwith to file such bonds, except those of justices of the peace, with the county auditor, and the county auditor shall on receipt thereof examine such bonds and see that they are properly executed and, if he finds that any bonds are not executed according to law, he shall note thereon any errors and return them to the clerk for correction, and it is hereby made the duty of the clerk to have such bonds corrected forthwith and return the same to the county auditor. The county auditor shall not issue any order upon the county treasurer for funds or money belonging to a civil township or school district to any person as treasurer of such township or school district until his bond has been filed as in this section provided.

**§ 347. Township clerk to require officers elected to qualify.** § 2, c. 94, 1893.  
It shall be the duty of the clerk of the township to require all legally elected officers, who accept the office to which they are elected, to qualify within the time prescribed by law and in accordance with all other provisions thereof. If any clerk refuses or neglects to file the bonds of township officers as above provided, he shall be liable to a fine of not less than ten nor more than fifty dollars.

**§ 348. Fee for filing township officers' bonds.** § 3, c. 94, 1893.  
An appropriation of fifty cents for each bond required to be filed shall be made

by the township and paid to the county auditor for the proper filing and entering of such bond.

§ 7. c. 5, Pol. C. **§ 349. Sureties to bond.** Each official bond shall be given with at least two sureties, but the bond of the state treasurer shall have at least four, and that of a county treasurer at least three sureties.

**§ 350. Governor may require additional bond of state officers.** Whenever the governor shall deem the bond filed by any state officer insufficient, he may require another bond to be furnished with sufficient sureties, and for failure to give such bond within ten days after being so required such office shall be deemed vacant.

§ 8. c. 5, Pol. C. **§ 351. Approval of bond must be signed by officer approving.** The approval shall in all cases be indorsed upon the bond and signed by the officer approving the same; but in case the board of county commissioners or the chairman of the township board of supervisors shall decide that a bond presented to them is insufficient, a reasonable time, not exceeding five days, shall be allowed the officer to supply a sufficient bond, and such board or officer may take three days to consider the approval of any bond. If such board or officer refuses or neglects to approve a bond of any county or township officer elect, he may upon three days' notice to such board or officer present the same to the judge of the district court, who shall, unless good cause for delay is shown, proceed to hear and determine the sufficiency of such bond, and may approve or disapprove the same as the facts warrant.

§ 1. c. 120, 1885. **§ 352. Bonds must be recorded.** The bonds of all county officers shall immediately after the approval of the same be recorded at length in the office of the register of deeds of the county in a book to be provided for that purpose. When such bonds are so recorded they shall be forthwith filed as provided in section 342.

§ 9. c. 5, Pol. C. am'd **§ 353. When term of office begins.** Except when otherwise specially provided, the regular term of office of each county, township and precinct officer, when elected for a full term, shall commence on the first Monday of January next succeeding his election, but, if the office to which he was elected was vacant at the time of his election, although he was not elected to fill such vacancy, he shall forthwith qualify and enter upon the duties of his office.

§ 10. c. 5, Pol. C. **§ 354. When officers shall qualify.** Except when otherwise specially provided, all state, district, county, township and precinct officers shall qualify and enter upon the discharge of the duties of their office on the first Monday of January next succeeding their election, or within ten days thereafter.

§ 11. c. 5, Pol. C. **§ 355. Failure to qualify. Vacancy.** If any person elected to any office mentioned in the preceding section shall fail to qualify and enter upon the duties of such office within the time fixed by law, such office shall be deemed vacant and shall be filled by appointment as provided by law; but if there is a contest for such office, or if the person elected to such office is prevented or obstructed in any manner from entering upon the duties thereof, the time above prescribed shall not govern, and he shall be allowed twenty days after the day such contest is determined or such obstruction removed in which to qualify.

§ 12. c. 5, Pol. C. am'd **§ 356. Bonds construed to cover all duties.** The bonds of all civil officers shall be construed to cover duties required by laws passed subsequent to giving them, and no bond shall be void for failure to comply with the law as to matters of form or substance, but it

shall be valid as to all matters contained therein, if it complies substantially with the law.

**§ 357. Re-elected incumbent to account before qualifying.** § 18, c. 5, Pol. C.  
When the incumbent of any office is re-elected he shall qualify as above required; but his bond shall not be approved until he has produced and fully accounted for all public funds and property in his control under color of his office during the expiring term to the person or authority to whom he should account, and the fact and date of such satisfactory exhibit shall be indorsed upon the new bond before its approval.

**§ 358. Public property must be delivered to successor.** § 14, c. 5, Pol. C.  
Every officer elected or appointed under the laws of this state shall on going out of office deliver to his successor in office all public moneys, books, records, accounts, papers, documents and property in his possession belonging or appertaining to such office.

#### ARTICLE 2. — VACANCIES AND SUPPLYING THE SAME.

**§ 359. Vacancies, how caused.** Every office shall become § 2, c. 22, Pol. C.  
vacant on the happening of either of the following events: am'd.

1. The death of the incumbent.
2. His insanity judicially determined.
3. His resignation.
4. His removal from office.
5. His failure to discharge the duties of his office, when such failure has continued for sixty consecutive days, except when prevented from discharging such duties by sickness or other unavoidable cause.
6. His failure to qualify as provided by law.
7. His ceasing to be a resident of the state, district, county or township in which the duties of his office are to be discharged, or for which he may have been elected.
8. His conviction of a felony or of any offense involving moral turpitude or a violation of his official oath.
9. His ceasing to possess any of the qualifications of office prescribed by law.
10. The decision of a competent tribunal declaring void his election or appointment.

#### RESIGNATIONS.

**§ 360. Resignations, to whom made.** Resignations must § 1, c. 22, Pol. C.  
be in writing and made as follows: § 1, c. 137, 1881.  
am'd.

1. Of the governor and lieutenant governor, to the legislative assembly if it is in session, and if not, to the secretary of state.
2. Of all other state and district officers, to the governor.
3. Of all members of the legislative assembly, to the presiding officer of their branches respectively, when in session; and when not in session, to the governor; and when made to the presiding officer he shall at once notify the governor thereof.
4. Of all the officers of the legislative assembly, to the respective branches thereof.
5. Of all elective county officers, by filing or depositing such resignation in the office of the county auditor, except that of county auditor, which shall be filed or deposited with the board of county commissioners, which resignation, unless a different time is fixed therein, shall take effect upon such filing or deposit.

6. Of officers of civil townships, to the board of supervisors of the township, except the members of such board, which shall be to the township clerk; and notice shall forthwith be given by the township clerk to the county auditor of the resignation of all officers whose bonds are filed with such officer.

7. Of all officers holding their office by appointment, to the body, board, court or officer that appointed them.

REMOVALS.

§ 3. c. 22. Pol. C. am'd.      **§ 361. Removal of officers. Causes for.** All district, county, township, city, municipal or state officers, not liable to impeachment, except representatives to congress and members of the legislative assembly, shall be subject to removal from office for misconduct, malfeasance, crime or misdemeanor in office or for habitual drunkenness or gross incompetency in the manner provided in the codes of civil or criminal procedure.

§ 4. c. 22. Pol. C. am'd.      **§ 362. Who may bring action.** The board of county commissioners in the name of the county or any person in his own name may make such a charge and bring the action, and the district court shall have exclusive original jurisdiction thereof.

§ 5. c. 22. Pol. C. § 1. c. 123. 1881.      **§ 363. Court may suspend officer.** At any time after the commencement of the action the court may suspend the accused from the functions of his office until the determination thereof, if sufficient cause appears from testimony or affidavits then presented; and if such suspension takes place, the board of county commissioners shall temporarily fill such office by appointment.

§ 7. c. 22. Pol. C.      **§ 364. Property delivered to successor.** Upon the death, resignation, suspension or removal from office of any officer all books and papers belonging to his office and all moneys and property in his hands of whatever kind shall be delivered to his successor.

FILLING VACANCIES.

§ 8. c. 22. Pol. C. am'd.      **§ 365. Vacancies, how filled.** All vacancies, except in the office of a member of the legislative assembly, shall be filled by appointment as follows:

1. In state and district offices, by the governor.

2. In county and precinct offices, by the board of county commissioners, except vacancies in such board.

3. In offices of civil townships, by the justices of the peace of such township, together with the board of supervisors or a majority of them, and if a vacancy occurs from any cause in the board of supervisors, the remaining members of the board shall fill such vacancy.

§ 9. c. 22. Pol. C. § 1. c. 148. 1885.      **§ 366. Vacancies in board of county commissioners, how filled.** When a vacancy occurs in the board of county commissioners, it shall be the duty of the remaining members of the board with the county judge and auditor immediately to appoint some suitable person to fill such vacancy from the district in which such vacancy occurred. In case a majority of such officers fail to agree upon a person to fill such vacancy the county treasurer shall be called in and act as an additional member of such board to fill such vacancy.

§ 10. c. 22. Pol. C.      **§ 367. Brief vacancies, not to be filled.** If a vacancy occurs thirty days previous to an election at which it may be filled, no appointment shall be made unless it is necessary to carry out such election and the canvass of the same according to law; in which case

an appointment may be made at any time previous to such election to hold until after such election or until his successor is elected and qualified.

**§ 368. Appointments to be made in writing. Term.** § 11. c. 22, Pol. C.  
Appointments under the provisions of this article shall be made in writing and shall continue in force until the expiration of the term in which the vacancy occurs and until his successor is elected and qualified, except as otherwise expressly provided by law.

**§ 369. Appointees, how to qualify.** A person appointed to office as herein provided shall qualify within the time and in the manner required of a person elected or appointed to such office for a full term thereof. § 12. c. 22, Pol. C. am'd.

### ARTICLE 3. — DEPUTIES.

**§ 370. Deputies may be appointed by certain officers.** § 1. c. 6, Pol. C. 1. c. 59, 1890. am'd.  
The state auditor, treasurer, superintendent of public instruction and secretary of state, the county treasurer, county auditor, sheriff, register of deeds, surveyor, clerk of the district court and district and city assessors may each appoint a deputy for whose acts as such he shall be responsible; and each officer required to give a bond may require a bond from any deputy appointed by him, which bond shall be in the penal sum of not greater than half the penal sum of his own bond, and such bond may be retained by the officer for his own protection. Such appointment shall be in writing and shall be revocable in writing at the pleasure of the principal, and all such appointments and revocations shall be filed as and where required for the bond and oath of the principal.

**§ 371. Sheriff may appoint any number of.** The sheriff may appoint such number of deputies as he may deem necessary. § 2. c. 6, Pol. C. 1. c. 43, 1883. am'd.

**§ 372. Oath of deputy.** Each deputy shall take and subscribe the same oath as his principal (naming his deputyship), which shall be indorsed upon and filed with his certificate of appointment. § 3. c. 6, Pol. C.

**§ 373. Certain persons ineligible as deputy.** No state officer can appoint as his deputy any other state or district officer, nor can a state treasurer appoint as his deputy any county treasurer, county judge, register of deeds, sheriff, or county commissioner; nor can either the clerk of the district court, the register of deeds or sheriff appoint as his deputy either of the others as their deputies. § 4. c. 6, Pol. C.

**§ 374. Officials to be residents.** No person shall be appointed as deputy or employed as clerk or subordinate in any state, county or municipal office, or as a member, officer or subordinate upon any official board of the state or of any county or municipality of the state, who is not a citizen of the United States, or, if an alien over twenty-one years of age, who has not declared his intention to become such. § 1. c. 91, 1893.

**§ 375. Offices, where kept.** No county, township or municipal officer in this state shall keep his office or any books, papers, records or other property pertaining to his office at any place other than that in which he is required by law to keep such office. § 1. c. 90, 1883. am'd.

**§ 376. Penalty for violation of last section.** Any officer violating any of the provisions of the last section is guilty of a misdemeanor. § 2. c. 90, 1883. am'd.

C H A P T E R 7 .

THE JUDICIAL DEPARTMENT.

ARTICLE 1.—THE SUPREME COURT.

§ 1, c. 108, 1895. **§ 377. Terms of supreme court.** There shall be two general terms of the supreme court held each year at the seat of government, as follows: one on the first Tuesday in April and one the first Tuesday of October of each year.

§ 2, c. 169, 1890.  
§ 2, c. 108, 1895. **§ 378. Special terms.** Whenever from any cause it appears to a majority of the judges of said court that the public interests demand that a special term of said court be held, the majority of the said judges have authority to appoint a special term of the supreme court to be held at the seat of government, giving twenty days' previous notice thereof by advertisement published in a newspaper at the seat of government of the state.

**§ 379. Salaries of supreme judges.** The judges of the supreme court shall each receive an annual salary of four thousand dollars.

ARTICLE 2.—THE CLERK OF THE SUPREME COURT.

§ 1, c. 170, 1890. **§ 380. Clerk of supreme court. How appointed.** There shall be a clerk of the supreme court, who shall be appointed by the judges thereof, and who shall hold his office during the pleasure of such judges.

§ 2, c. 170, 1890. **§ 381. Oath. Bond. Deputy.** Such clerk before entering upon his duties shall qualify by taking the oath provided in the constitution and by giving a bond in the sum of three thousand dollars with sufficient surety to be approved by the governor, conditioned for the faithful performance of his duties. Such clerk may appoint a deputy who shall take and subscribe the oath prescribed in the constitution and file the same in said court. The clerk shall be responsible for the acts of his deputy.

§ 3, c. 170, 1890. **§ 382. Clerk procures necessary records, seal, stationery, etc.** Such clerk, unless otherwise provided for by law, shall procure the necessary records, seal, stationery, postage, lights, fuel and furniture for the use of the supreme court, and the expenses thereof shall be audited and paid as in other cases.

§ 4, c. 170, 1890. **§ 383. Clerk personally performs all duties. When deputy can act.** He shall personally perform all the duties assigned him by law and the rules of said court. When he is unavoidably absent or unable for any cause to perform his duties, his deputy may perform the same.

§ 5, c. 170, 1890. **§ 384. To furnish syllabus for publication.** Whenever a syllabus is filed by the judges of the supreme court as required by law, the clerk shall immediately thereafter make and furnish a copy thereof together with the title of the action in which the same is rendered to the publishers of such daily newspapers in the state of North Dakota as consent to publish the same without charge.

§ 6, c. 170, 1890. **§ 385. Salary of clerk.** The clerk shall receive an annual salary of fifteen hundred dollars.

§ 7, c. 170, 1890. **§ 386. Fees in supreme court.** The following fees shall be charged and collected by the clerk:



For drawing any process issued under the seal of said court, one dollar.

Affixing the seal to any process of the court, twenty-five cents.

Filing papers, ten cents each.

Reading and filing any petition relating to any proceeding in court, ten cents.

Entering the appearance or default of appellant or plaintiff, or of defendant or respondent, fifteen cents.

Entering every rule or order, fifteen cents per folio.

A certified copy of every such rule or order, and of all papers, pleadings and proceedings filed with him, ten cents per folio.

Entering a decree or sentence, ten cents per folio.

Entering a judgment or order, fifteen cents for every judgment debtor; ten cents for each folio more than two.

Engrossing a remittitur to be sent to the district court, ten cents per folio.

Every certificate, twenty-five cents.

Taxing costs, fifty cents.

Entering satisfaction of record, fifteen cents.

Taking security, fifty cents.

Entering each cause on the calendar and making a copy for the bar, ten cents.

Searching records and files in his office, twenty cents for the records and files for each year.

For services required by law or the rules of the court not hereinbefore provided for, such fees as the court directs.

Admission of attorneys, three dollars.

**§ 387. Fees covered into state treasury quarterly.** He shall keep an accurate account of all fees received by him, and on the first days of January, April, July and October of each year he shall file with the state auditor a detailed statement of such fees, which statement must be verified by the affidavit of such clerk. He shall also file with such statement a receipt from the state treasurer, showing that all of such fees so received by him have been covered into the state treasury. § 8, c. 170, 1890.

**§ 388. When clerk to receive additional fees.** In addition to the salary hereinbefore prescribed he shall receive for his expenses in attending sessions of the supreme court, when held at points other than at the seat of government, the sum of five cents per mile for each mile necessarily traveled in going to and returning from such sessions and the sum of two dollars for each day he is in actual attendance thereat, which mileage and per diem shall be in lieu of all other traveling expenses to be allowed such clerk. Upon filing with the state auditor an itemized statement, verified by oath, showing the mileage and per diem aforesaid, the state auditor shall draw a warrant upon the state treasurer in favor of such clerk for the amount so shown to be due under such statement. § 9, c. 170, 1890.

### ARTICLE 3. — THE SUPREME COURT REPORTER.

**§ 389. Supreme court reporter, how appointed.** The judges of the supreme court shall appoint a person of known integrity, experience and learning in the law, reporter of the decisions thereof, and such person shall hold such office during the pleasure of the judges. § 2, c. 76, 1870.  
§ 13, Const.

§ 1. c. 171, 1890. **§ 390. Bond and how approved.** Such reporter shall give a bond to the state, with at least two sufficient sureties, to be approved by the chief justice, in the sum of two thousand dollars, conditioned for the faithful performance of his official duties.

§ 2. c. 171, 1890. **§ 391. Duties of reporter.** Such reporter shall, as soon as practicable after opinions of the supreme court are filed, prepare accurate copies of such opinions and of all dissenting opinions filed, prefixing thereto copies of the syllabi prepared by the court, the names of counsel in each case, a statement of the facts or pleadings and an abstract of the briefs of counsel, when he may deem such statement or abstract necessary or helpful to a full understanding of the case. He may, in his discretion, add a brief note referring to prior adjudications.

§ 3. c. 171, 1890. **§ 392. Clerk to furnish reporter copies of records and opinions.** It shall be the duty of the clerk to furnish the reporter with a copy of the record and the opinions in each case at the expiration of twenty days after the decision is filed, except when a rehearing is granted, and such reporter may retain the same for such reasonable time as he may require to prepare the report thereof, when it shall be returned to and remain in the office of the clerk.

§ 4. c. 171, 1890. **§ 393. To supervise publication of reports. Copyright for state.** It shall be the duty of the reporter to correct proof, prepare suitable indices for and supervise the publication of all volumes of reports of the decisions of the supreme court, which may hereafter be published under the authority of the state; and to secure a copyright of each volume of such reports before the same are distributed for the exclusive use and benefit of the state, the procurement of such copyright to be properly printed in each volume, and, until provision for such publication shall have been made, all copies of decisions, syllabi, statements of facts and pleadings, abstracts of briefs and notes prepared by such reporter under the provisions of this article shall be filed with the clerk of such court.

§ 7. c. 171, 1890.  
1. c. 123, 1891.  
am'd. **§ 394. Reports, how printed. Number.** It shall be the duty of the supreme court reporter to publish in book form the opinions of the supreme court, together with other matters as contemplated in section 391, when the judges of said court shall direct such publication to be made; provided, that each book shall contain not less than five hundred and fifty pages octavo of printed matter. The publication shall be let and paid for in the same manner as other public printing; but the printed matter shall be stereotyped and the stereotyped plates shall be the property of the state and shall be deposited in the office of the secretary of state. The first edition of each volume shall consist of seven hundred and fifty copies, which shall be delivered to the secretary of state to be by him distributed according to law; and volumes remaining undistributed shall be sold by him at three dollars per volume. The reporter's name must not appear on the back of such volumes, but each volume shall be labeled on the back, "North Dakota Reports" and shall be numbered consecutively beginning with volume 1 heretofore published.

§ 5. c. 171, 1890. **§ 395. Salary of reporter.** Such reporter shall receive an annual salary of eight hundred dollars.

ARTICLE 4. — MARSHALS OF THE SUPREME COURT.

§ 396. Marshals of supreme court. Compensation. The § 1, c. 90, 1890. sheriffs of the counties of Burleigh, Cass and Grand Forks are hereby constituted and made the marshals of the supreme court, and they and each of them are authorized to serve all process of the court, and shall be entitled to charge and receive the same fees and mileage for the service of process issued by the court or otherwise, relating to the business of the court, and the same compensation for attendance upon the court as is now allowed by law to sheriffs for performing similar duties in the district courts of the state, which fee shall be paid out of the state treasury as other expenses are paid.

§ 397. When respective marshals to act. The sheriff of § 2, c. 90, 1890. each of the respective counties aforesaid shall act as marshal during the term of such court in his county.

§ 398. Liability of sheriffs acting as marshals. Such § 3, c. 90, 1890. sheriffs shall be liable on their official bonds given as sheriffs of their respective counties for the faithful and proper performance of their duties as marshals of the supreme court.

ARTICLE 5. — DISTRIBUTION OF SUPREME COURT REPORTS.

§ 399. Supreme court reports, how distributed. It shall § 1, c. 154, 1887. be the duty of the secretary of state to deliver one copy of each volume of the North Dakota reports to the following officers and organizations: each judge of the supreme court of this state, each of the judges of the district courts of this state, the United States attorney for North Dakota, the attorney general for the state, the library of the congress of the United States, the library of the supreme court of the United States, the attorney general of the United States, the governor of the state, the public library of each state and organized territory of the United States that exchanges reports with this state, and three copies to the clerk of the supreme court of this state for the use of the court when in session, and to deposit ten copies in the state library to be retained therein; provided, that any of the above named officers or bodies which have been once supplied with any of the above named volumes need not be supplied with additional copies; and it is made the duty of each state officer above specified to deliver to his successor in office upon the expiration of his term of office all such volumes in his possession.

§ 400. Secretary of state to supply auditors. It is the § 3, c. 154, 1887. duty of the secretary of state to furnish to each county auditor in this state three copies of each volume of such reports, and it is the duty of such auditor upon receipt of the volumes above specified to mark conspicuously upon the outside of the cover thereof with red ink or to brand thereon the words "property of the county of . . . . . " (inserting the name of the county of which he is an officer).

§ 401. County officers supplied. The county auditor must § 3, c. 154, 1887. deliver one copy of each volume so marked or branded into the custody of the clerk of the district court, county judge and state's attorney of his county, and each of such officers shall at the expiration of his term of office deliver such volume to his successor in office.

## ARTICLE 6.—THE DISTRICT COURTS.

§ 1. c. 103, 1895. **§ 402. Judicial districts.** The state is divided into seven judicial districts, and terms of court shall be held in each district as provided in the following sections.

At the general election in 1896 there shall be elected in each judicial district, a judge of the district court, whose term of office shall be four years from the first Monday in January next succeeding his election and until his successor is elected and qualified.

## FIRST JUDICIAL DISTRICT.

§§ 1-6. c. 81, 1890. **§ 403. Boundaries and terms of courts.** The first judicial district consists of the counties of Grand Forks and Nelson, and two terms of the district court shall be held each year at the county seat of each of such counties as follows:

In Grand Forks county, commencing on the first Tuesday in June and the first Tuesday in December.

In Nelson county, commencing on the fourth Monday in May and the second Monday in November.

## SECOND JUDICIAL DISTRICT.

§§ 1-10. c. 72, 1883. **§ 404. Boundaries and terms of court.** The second judicial district consists of the counties of Ramsey, Towner, Rolette, Benson, Pierce, Bottineau, McHenry, Ward and Williams and two terms of the district court shall be held each year at the county seat of each of such counties as follows:

In Ramsey county, commencing on the first Monday in December and the first Monday in May.

In Towner county, commencing on the fourth Monday in May and the third Tuesday in November.

In Rolette county, commencing on the third Monday in March and the fourth Monday in November.

In Benson county, commencing on the third Monday in October and the second Monday in April.

In Pierce county, commencing on the fourth Monday in December and the second Monday in June.

In Bottineau county, commencing on the fourth Monday in September and the fourth Monday in April.

In McHenry county, commencing on the fourth Tuesday in March and the third Monday in September.

In Ward county, commencing on the third Monday in April and the first Monday after the first Tuesday in November.

In Williams county, commencing on the first Monday in September and the third Monday in February.

## THIRD JUDICIAL DISTRICT.

§ 1. c. 53, 1883. **§ 405. Boundaries and terms of court.** The third judicial district consists of the counties of Cass, Steele and Traill, and terms of the district court shall be held at the county seat in each of such counties each year, as follows:

In Cass county, commencing on the first Tuesday in February, the fourth Tuesday in April, the first Tuesday in September and the first Tuesday in November, but no jury shall be called at the February or September terms of such court; provided, that the judge may in his discretion call a jury for such terms for the trial of criminal cases.

In Steele county, commencing on the second Tuesday in June and the third Tuesday in October.

In Traill county, commencing on the second Tuesday in January and the fourth Tuesday in June.

#### FOURTH JUDICIAL DISTRICT.

§ 406. **Boundaries and terms of court.** The fourth judicial district consists of the counties of Richland, Ransom, Sargent, Dickey and McIntosh, and two terms of the district court shall be held each year at the county seat of each of such counties as follows: § 1, c. 54, 1893.

In Richland county, commencing on the first Tuesday in January and the first Tuesday in July.

In Ransom county, commencing on the first Tuesday in June and the fourth Tuesday in November.

In Sargent county, commencing on the third Tuesday in June and the second Tuesday in December.

In Dickey county, commencing on the fourth Tuesday in May and the second Tuesday in November.

In McIntosh county, commencing on the second Tuesday in May and the third Tuesday in October.

#### FIFTH JUDICIAL DISTRICT.

§ 407. **Boundaries and terms of court.** The fifth judicial district consists of the counties of Stutsman, Barnes, LaMoure, Griggs, Foster, Eddy, Wells and Logan, and two terms of the district court shall be held each year at the county seat of each of such counties as follows: §§ 1-9, c. 79, 1891.  
§ 1, c. 73, 1893.

In Stutsman county, commencing on the first Tuesday in January and the first Tuesday in July.

In Barnes county, commencing on the second Tuesday in June and the second Tuesday in December.

In LaMoure county, commencing on the first Tuesday in March and the first Tuesday in September.

In Griggs county, commencing on the second Tuesday in May and the second Tuesday in November.

In Foster county, commencing on the second Tuesday in April and the second Tuesday in October.

In Eddy county, commencing on the fourth Tuesday in May and the fourth Tuesday in November.

In Wells county, commencing on the fourth Tuesday in March and the fourth Tuesday in September.

In Logan county, commencing on the fourth Tuesday in April and the fourth Tuesday in October.

#### SIXTH JUDICIAL DISTRICT.

§ 408. **Boundaries and terms of court.** The sixth judicial district consists of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Stark, Hettinger, Bowman, Billings, McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian Reservation lying north of the seventh standard parallel, and is divided into judicial subdivisions as follows: § 1-9, c. 82, 1890.

1. The first subdivision consists of the county of Burleigh and two terms of the district court shall be held each year at the county seat thereof, commencing on the third Tuesday in May and the fourth Tuesday in November.

2. The second subdivision consists of the county of Billings and two terms of the district court shall be held therein each year at the county seat at such times as the judge of such court may direct.

3. The third subdivision consists of the county of Emmons, and two terms of the district court shall be held each year at the county seat thereof at such times as the judge of said court may direct.

4. The fourth subdivision consists of the county of Kidder, and two terms of the district court shall be held each year at the county seat thereof commencing on the third Tuesday in June and the second Tuesday in January.

5. The fifth subdivision consists of the county of Mercer, and two terms of the district court shall be held each year at the county seat thereof at such times as the judge of such court may direct.

6. The sixth subdivision consists of the counties of McLean and Sheridan, and two terms of the district court shall be held therein each year at the county seat of McLean county at such times as the judge of such court may direct.

7. The seventh subdivision consists of the county of Morton and all that portion of the Sioux Indian Reservation lying north of the seventh standard parallel, and south of Morton county, and two terms of the district court shall be held therein each year at the county seat of Morton county, commencing on the third Tuesday in April and the first Wednesday after the first Monday in November.

8. The eighth subdivision consists of the county of Oliver, and two terms of the district court shall be held therein each year at the county seat thereof at such times as the judge of said court shall direct.

9. The ninth subdivision consists of the counties of Stark, Wallace, Dunn, Hettinger, Bowman, McKenzie, Allred and all that portion of the Sioux Indian Reservation lying south of Hettinger county, and north of the seventh standard parallel, and two terms of the district court shall be held therein each year at the county seat of Stark county on the first Tuesday in April and the second Tuesday in September.

#### SEVENTH JUDICIAL DISTRICT.

§ 5. c. 103, 1895.

**§ 409. Boundaries and terms of court.** The seventh judicial district consists of the counties of Pembina, Walsh and Cavalier and terms of court shall be held in each of such counties in each year, as follows:

In the county of Pembina, at Pembina commencing on the first Tuesday in January, the first Tuesday in June, the first Tuesday in April and the first Tuesday in October; provided, that at the terms appointed to be held in the months of April and October no jury shall be called unless called by the court for the trial of criminal cases.

In the county of Cavalier, at Langdon on the third Tuesday in May and the first Tuesday in November.

In the county of Walsh, at Grafton on the fourth Tuesday in January, the third Tuesday in June, the third Tuesday in November and the third Tuesday in March; provided, that at the terms appointed to be held in the months of March and November no jury shall be called except in the discretion of the court for the trial of criminal cases.

§ 410. **Chambers, where held.** The court shall on the first Monday in each month, except in the months in which the terms of court are called to be held in Pembina county, have its chambers at Pembina in said county for the purpose of hearing and transacting such business as may come before it, and at all other times shall hold its chambers at Grafton in Walsh county, except on the third Monday in December and the fourth Monday in September, when it shall hold its chambers at Langdon in the county of Cavalier. § 5, c. 103, 1895.

ARTICLE 7.—GENERAL PROVISIONS RELATING TO DISTRICT COURTS.

§ 411. **Special terms of court.** Nothing contained in article 6 shall be construed to restrict the power of the court or any judge to call and convene other terms of court in any of said counties and require the attendance of jurors at the same in the manner provided by law, but such special terms shall not supersede the requirement to hold any general term hereinbefore provided for. § 2, c. 53, 1893.

§ 412. **In case of holidays.** In case the day appointed for the commencement of the term in any county shall be a statutory holiday such term may commence on the following day. § 2, c. 53, 1893.

§ 413. **Salaries of judges.** The judges of the district court shall each receive a salary of three thousand five hundred dollars per annum, payable quarterly. § 1, c. 92, 1893.

ARTICLE 8.—COURT STENOGRAPHERS.

§ 414. **Appointment, how made.** The judge of the district court in each judicial district may, whenever in his judgment it will expedite the public business, appoint a competent person to the office of court stenographer within his district. The order of appointment shall be filed in the office of the clerk and entered upon the records of the court in each county of the district, and the person so appointed shall take and subscribe the oath required of other civil officers and file the same in the office of the secretary of state, and shall hold his office and discharge the duties thereof in person until the order for his appointment is revoked, or another person is appointed to such office. In case such stenographer shall be incapacitated from acting the judge may appoint some suitable person to act in his place, whose minutes, transcripts and certificates shall have the same force and effect as though made by such official stenographer, but the certificates made by such person shall be under oath. § 1, c. 46, 1893.

§ 415. **Duties.** Such stenographer shall attend the sessions of the court within the district whenever the judge shall so direct, and shall take in shorthand all testimony given orally by the witnesses and all objections and rulings made and exceptions taken, also the instructions given orally by the court and all other proceedings at the hearing or trial not reduced to writing. § 2, c. 46, 1893. am'd.

§ 416. **Original minutes to be filed, where.** The original shorthand minutes so taken with the indorsement thereon in long-hand over the signature of the stenographer, giving the title of the action and stating the contents and time and place of taking, shall in every case be filed in the office of the clerk of the court of the county in which the action is pending at the conclusion of the trial or as soon thereafter as practicable, but the same may be withdrawn by the stenographer at any time for a reasonable period for the purpose of transcribing. § 3, c. 46, 1893. am'd.

§ 4, c. 46, 1893.  
am'd.

§ 417. **Transcript of minutes, when to be made.** The judge may, in a criminal action on the application of the defendant or the state's attorney, whenever in his judgment there is reasonable cause, order a transcript of the original minutes or any part thereof to be made at the expense of the county, and such stenographer shall plainly transcribe the same into longhand accordingly and file such transcript in the office of the clerk, and he shall at any time at the request of any party to a civil or criminal action, upon payment of his fees as provided by law, in like manner transcribe his original minutes or any part thereof taken in such action, and deliver the same to the party ordering such transcript, who may file the same in the office of the clerk whenever he shall so elect. Each transcript filed as herein provided shall be available alike to either party to the action for the purposes hereinbefore set forth.

§ 5, c. 46, 1893.

§ 418. **Certification of transcript.** Such transcript must in each case be certified by the stenographer to the effect that it is a correct transcript of his original shorthand minutes and a full, true and complete statement of the testimony and other proceedings which it purports to contain, and when he has ceased to hold his office as stenographer of the court he must make such certificate under oath.

§ 6, c. 46, 1893.

§ 419. **Compensation.** The stenographer shall be entitled to receive from each county in which he is required to attend court reimbursement for his traveling expenses at the rate of five cents per mile for each mile actually and necessarily traveled in going thereto and returning therefrom and compensation for his time actually employed in attending court therein in such sum as the judge shall allow, not exceeding ten dollars per day, all of which shall be audited and paid by the proper county on the order of the judge. For making transcripts as herein provided he shall be entitled to receive such compensation as the judge shall allow, not exceeding fifteen cents for each folio of one hundred words, and the same, when ordered by the judge, shall be paid by the county chargeable with the costs of the action, and in all other cases by the party requesting such transcript.

#### ARTICLE 9. — ATTORNEYS AND COUNSELORS AT LAW.

§ 1, c. 119, 1891.

§ 420. **Power to admit vested in the supreme court.** The power to admit persons to practice as attorneys and counselors at law in the courts of this state is hereby vested in the supreme court.

§ 2, c. 119, 1891.  
am'd.

§ 421. **Qualifications of applicants.** Applicants for admission to practice as attorneys and counselors at law must be residents of this state, at least twenty-one years of age, of good moral character, and must have actually and in good faith pursued a regular course of study of the law for at least two full years, either in the office of a member of the bar of this state residing therein, and in regular practice, or in some reputable law school in the United States or partly in such office and partly in such law school. But in computing such period of study the school year of any such law school, consisting of not less than thirty-six weeks, exclusive of vacation, shall be considered equivalent to one full year.

§ 3, c. 119, 1891.  
am'd.

§ 422. **Examinations, how conducted.** Each applicant must be examined in open court as to his learning and skill in the law by the judges thereof, or by a committee of not less than three members of the bar appointed by the court therefor, and the court must be satisfied before admitting to practice that each applicant has actually



and in good faith devoted the time hereinbefore required to the study of law and possesses the requisite learning and skill therein and the qualifications mentioned in the last section.

§ 423. **Oath of office.** Upon being admitted to practice as an attorney and counselor at law as above provided he shall in open court take the oath prescribed in section 211 of the constitution. § 4, c. 119, 1891. Am'd.

§ 424. **Admission on certificate, how.** Any person becoming a resident of this state after having been admitted to the bar in any of the states of the United States, in which he has previously resided may at the discretion of the court be admitted to practice in this state without examination or proof of period of study as hereinbefore provided, on proof of the other qualifications by this article required and on satisfactory proof that he has practiced law regularly for not less than one year in the state from which he comes after having been admitted to the bar according to the laws of such state. § 5, c. 5, 1891.

§ 425. **Court may prescribe rules.** The supreme court may by general rules prescribe the mode by which examinations under this article shall be conducted and in which the qualifications required as to age, residence, character and period of study shall be proved, and may make any further rules, not inconsistent with this article, for the purpose of carrying out its object and intent. § 6, c. 119, 1891.

§ 426. **Foreign attorneys may practice, when.** Any member of the bar of another state, actually engaged in any cause or matter pending in any court in this state, may be permitted by such court to appear in and conduct such cause or matter while retaining his residence in another state without being subject to the foregoing provisions of this article. § 7, c. 119, 1891.

§ 427. **Duties of an attorney.** It is the duty of an attorney and counselor: § 4, c. 18, Pol. C.

1. To maintain the respect due to the courts of justice and judicial officers.

2. To counsel and maintain no other actions, proceedings or defenses than those which appear to him legal and just, except the defense of a person charged with a public offense.

3. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never seek to mislead the judges by any artifice or false statement of fact or law.

4. To maintain inviolate the confidence, and at any peril to himself to preserve the secret of his client.

5. To abstain from all offensive personalities and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged.

6. Not to encourage either the commencement or continuance of an action or proceeding from any motive of passion or interest.

7. Never to reject for any consideration personal to himself the cause of the defenseless or the oppressed.

§ 428. **Punishment for deceit.** An attorney and counselor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court, judge or party to an action or proceeding is liable to be disbarred and shall forfeit to the injured party treble damages, to be recovered in a civil action. § 5, c. 18, Pol. C.

§ 429. **Power of attorneys.** An attorney and counselor has power: § 6, c. 18, Pol. C.

1. To execute in the name of his client a bond or other written instrument necessary and proper for the prosecution of an action or

proceeding about to be or already commenced; or for the prosecution or defense of any right growing out of an action, proceeding or final judgment rendered therein.

2. To bind his client to any agreement in respect to any proceeding within the scope of his proper duties and powers; but no evidence of any such agreement is receivable, except the statement of the attorney himself, his written agreement signed and filed with the clerk, or an entry thereof upon the records of the court.

3. To receive money claimed by his client in an action or proceeding during the pendency thereof, or afterwards, unless he has been previously discharged by his client, and upon payment thereof, and not otherwise to discharge the claim or acknowledge satisfaction of the judgment.

§ 7, c. 18, Pol. C. § **430. Proof of authority.** The court may on motion of either party and on the showing of reasonable grounds therefor require the attorney for the adverse party, or for any one of the several adverse parties, to produce or prove by his oath or otherwise the authority under which he appears, and until he does so may stay all proceedings by him on behalf of the parties for whom he assumes to appear.

§ 8, c. 18, Pol. C. § **431. Attorney not to be surety.** No practicing attorney and counselor shall be a surety in any action or proceeding which may be instituted in any of the courts of this state.

§ 11, c. 18, Pol. C. § **432. What courts may revoke or suspend license.** The supreme court or any district court may revoke or suspend the license of an attorney and counselor at law to practice in the courts of this state, but not until a copy of the charges against him shall have been delivered to him by the clerk of the court in which the proceeding shall be had, and an opportunity shall have been given him to be heard in his defense.

§ 12, c. 18, Pol. C. am'd. § **433. Causes for revocation or suspension.** The license of an attorney and counselor at law may be revoked or suspended for either of the following causes:

1. When he has committed a felony, or a misdemeanor involving moral turpitude.

2. When he is guilty of a willful disobedience or violation of an order of the court, requiring him to do or forbear an act connected with, or in the course of, the profession.

3. For a willful violation of any of the duties of an attorney or counselor as hereinbefore prescribed.

4. For doing any other act to which such a consequence is by law attached, or upon conviction for any of the offenses mentioned in sections 7013, 7022 and 7023.

§ 13, c. 18, Pol. C. § **434. Proceedings to remove or suspend.** The proceeding to remove or suspend an attorney may be commenced by direction of the court, or on motion of any individual. In the former case the court must direct some attorney to draw up the accusation; in the latter the accusation must be drawn up and sworn to by the person making it.

§ 14, c. 18, Pol. C. § **435. Accusations, how answered.** To the accusation he may plead or demur and the issues joined thereon shall in all cases be tried by the court, all the evidence being reduced to writing, filed and preserved.

§ 15, c. 18, Pol. C. § **436. Judgment of the court.** If the accused fails to answer or pleads guilty, the court shall proceed to render such judgment as the case requires.

§ 437. **Appeal from judgment.** An appeal lies to the supreme court from all orders of the district court revoking or suspending the license of an attorney and counselor at law; and upon an appeal being taken from such an order all the original papers, together with the transcript of the record and proceedings therein, shall thereupon be transferred to the supreme court to be there tried and determined as the law and the evidence shall warrant. A judgment of acquittal by the district court is final. § 16, c.18, Pol.C.

§ 438. **Refusal to pay over money.** An attorney who receives money or property of his client in the course of his professional business and who refuses to pay or deliver the same to the person entitled thereto within a reasonable time after demand is guilty of a misdemeanor. § 17, c.18, Pol.C.

§ 439. **No penalty unless lien secured.** When an attorney claims to be entitled to a lien upon money or property of his client in his possession, he is not liable to the penalty of the preceding section unless he neglects or refuses to pay or deliver such money or property to the person entitled thereto upon his giving a bond with sufficient surety to be approved by the clerk of the district court conditioned for the payment of the amount of such attorney's claim when legally established. § 18, c.18, Pol.C.

§ 440. **No liability if security given.** Nor shall he be liable as aforesaid if he shall give a sufficient bond conditioned that he will pay or deliver the whole or any portion of such money or property to the claimant in the event such claimant shall finally establish his right thereto. § 19, c.18, Pol.C.

ARTICLE 10. — JURORS.

§ 441. **Qualifications of jurors.** All male citizens residing in any of the counties of this state, having the qualifications of electors, and being over the age of twenty-one years, and of sound mind and discretion, and not judges of the supreme or district courts, clerks of the supreme or district courts, sheriff, coronor, attorneys and counselors at law engaged in practice, or jailors, and not subject to any bodily infirmity amounting to a disability and who have not been convicted of a criminal offense punishable by imprisonment in the penitentiary, and not subject to disability on account of the commission of any offense which by special provision of law disqualifies him, are and shall be competent persons to serve on all grand and petit juries within their counties or subdivisions respectively; provided, that persons over sixty years of age, ministers of the gospel, county judges, county commissioners, registers of deeds, practicing physicians, postmasters and carriers of the United States mail, shall not be compelled to serve as jurors, neither shall any member in good standing of any regularly organized fire company be compelled to serve as a juror in any of the courts of this state. § 1, c. 19, Pol. C. § 1, c. 73, 1883. am'd.

§ 442. **Jury summoned on order of district court.** No jury shall be summoned except by order of the judge of the district court, who shall issue an order to the clerk of such court requiring a jury to be summoned, and in such order shall specify the number of petit jurors to be summoned and the time and place where they shall appear. Such order may be issued at any time within thirty days prior to the first day of the term of the district court at which the jury is to attend or at any time during the term. § 5, c. 19, Pol. C. § 1, c. 74, 1883.

§ 6, c. 19, Pol. C.  
§ 1, c. 62, 1885.

§ 443. **Grand jury, how summoned.** A grand jury shall be summoned in the same manner provided for summoning petit juries; provided, that in all cases a grand jury shall consist of not less than sixteen nor more than twenty-three jurors.

§ 1, c. 80, 1887.  
am'd.

§ 444. **Drawing jurors in counties wholly or partially organized into civil townships.** In each county in this state wherein terms of the district court are held the names of two hundred persons qualified to act as jurors shall be selected in the manner hereinafter provided, from which to draw the grand and petit jurors; provided, that if in any county there are not two hundred persons qualified to act as jurors then a less number, and the highest number possible, shall be selected. The board of county commissioners in each county, in which only a portion of the civil townships are organized, shall apportion to each of the organized townships and to each incorporated city and village in such county and to the unorganized portion of such county, as near as may be, its pro rata share of such names. The number of names to be selected from the portion of the county not organized into civil townships, and not embraced within the limits of any incorporated city or village, shall be selected by the board of county commissioners from the last annual tax list and furnished to the clerk of the district court of such county. In each county, in which all the townships are organized into civil townships, the board of county commissioners shall, as near as may be, apportion pro rata the number of names to be selected among the civil townships in their respective counties and among the incorporated cities and villages therein, if any. The names on the assessors' lists of the several townships, cities and villages for the preceding year shall be the basis for making such apportionment.

§ 1, 2, c. 85,  
1880.  
am'd.

§ 445. **Special venire to complete jurors' list, when.** In counties whose assessors' lists contain less than two hundred names of persons qualified to act as jurors for the year preceding the making or filing of such lists of names for jurors, it shall be the duty of the board of county commissioners to select the highest number of names possible and when the number of names so selected shall not furnish a sufficient list from which to draw a grand and petit jury, a special venire shall be issued by the judge of the district court to complete the panels of jurors.

§ 2, c. 80, 1887.  
am'd.

§ 446. **Clerks of townships to post notices. What notice contains.** Whenever the county commissioners of any county shall have made the apportionment mentioned in section 444, the county auditor shall forthwith notify the clerk of each township and village and the clerk or auditor of each city of the apportionment of his township, city or village, and such clerk or auditor shall immediately thereafter cause to be posted in three public places in his township, city or village a notice that the board of supervisors of the township, or the board of aldermen or city council of the city, or the board of trustees of the village, as the case may be, will meet to draw the names of qualified jurors of the township, city or village to make up the grand or petit jurors' list for the county. Such notice shall state the time and place of such meeting within the township, city or village, designating a day not less than five nor more than ten days from the day of posting such notice.

§ 3, c. 80, 1887.

§ 447. **Aldermen and trustees to select jurors, how.** At the time and place mentioned in such notice the board of supervisors of the township, or the board of aldermen or the city council of the

city, or the board of trustees of the village, as the case may be, shall meet and select from the names of the resident tax payers of such township, city or village three times as many names as are apportioned to the township, city or village by the county commissioners, and the township, city or village clerk or auditor shall at such meeting write each name so selected on a separate ticket and shall also record the list of the names so written and selected in a book to be kept for that purpose. Such board shall then compare the names on such tickets with such recorded list of names to satisfy itself that such tickets are correct. The tickets shall then be folded, placed in a box or some other receptacle and shaken up; one of the members of the board shall then select by lot from the tickets in such box or receptacle the proper number of names so apportioned to his township, city or village, as the case may be; and the clerk or auditor shall then record in a book to be kept for that purpose such names in the order in which they were drawn.

**§ 449. Auditor to furnish list to clerk of district court.** Such clerk or auditor shall immediately thereafter forward by mail to the clerk of the district court of his county a list of the names so drawn; and the clerk of the district court shall make out and record in a book to be kept for that purpose a list of the names so forwarded to him; but a failure of the officers of any township, city or village to comply with the provisions of the foregoing section shall not invalidate such list. § 4, c. 80, 1887.  
am'd.

**§ 449. Formation of county board to select jurors.** Within three days after the receipt of the order of the judge of the district court directing a jury to be summoned, the clerk of the district court or his deputy and the county auditor, county treasurer and sheriff, or a majority of them, shall meet together at the county seat. In case the sheriff shall be disqualified by reason of being a party to any suit pending in such court, or for any other reason, the coroner shall serve with such officers in the place of the sheriff. Notice of such meeting, stating the object thereof and the time of the meeting must be served by the clerk of the district court upon each of such other officers in the manner provided for the service of a summons and he shall also notify by mail each practicing attorney or firm of attorneys in the county of such meeting at least one day prior thereto, and such meeting must take place within one day after the service of such notice. § 5, c. 72, 1883.

**§ 450. Drawing jurors, manner of.** At such meeting the clerk of the district court or his deputy shall write the name of each person on such juror list on a separate ticket, and the remainder of the officers at such meeting shall compare such tickets with said list, and when all of said names on said tickets are found to correspond with said list, such ticket shall be folded and placed in a box or some suitable receptacle and shaken. § 6, c. 72, 1883.

**§ 451. Drawing jurors, manner of, continued.** One of such officers, other than the clerk of court, shall then proceed to draw enough of such tickets to equal the number of jurors directed to be summoned, and such clerk or his deputy shall record such names in the order in which they were drawn, in a book to be kept for that purpose. The jurors first drawn, to the number required in the order, shall serve as grand jurors, if a grand jury shall be ordered to be summoned, and the remainder shall serve as petit jurors. § 7, c. 72, 1883.  
am'd.

**§ 452. Duty of clerk of court.** Such clerk shall on the day of the drawing aforesaid issue a venire or venires as the case may be, § 8, c. 72, 1883.

directed to the proper officer of the county, commanding such officer to summon the persons whose names are drawn to appear before the district court at the hour, day and place designated in the order of the judge. A separate venire shall issue for the grand jury when such jury is ordered.

§ 9, c. 72, 1863.  
§ 5, c. 80, 1887.  
am'd.

**§ 453. Number of names to be always at maximum.**

Such number of two hundred names shall at all times be kept full, when possible, by completing the number after each jury term of court; and at the end of each jury term of the district court the clerk shall make requisition upon the county commissioners for the furnishing of as many names as have been drawn so as to keep such list full. And at the subsequent meeting the board of county commissioners shall proceed to apportion as hereinbefore provided for making up the whole of such list, and the same proceedings shall be had as to such names so required, as are herein directed to be taken in making said list full, except that the board of supervisors of any township, the board of aldermen or the city council of any city, or the board of trustees of any village, need not be specially called to draw any such names, but may do so at any regularly called meeting; provided, that in the notice of such meeting the fact that names for the jury list are to be drawn shall be stated therein as heretofore provided. A failure to comply with any of the provisions of this section shall not be ground for challenge of any juror, either grand or petit, or to the panel.

§ 10, c. 19, Pol.C.  
am'd.

**§ 454. Venire, how served.** The officer receiving a venire shall forthwith serve the same by reading or delivering a true copy thereof to each person therein named, or by leaving such copy at his usual place of residence, (such copy need contain only the name of the juror served), and shall make return thereof, with his proceedings indorsed thereon, to the clerk as soon as he has executed the same.

§ 11, c. 19, Pol.C.  
am'd.

**§ 455. Jurors must appear.** Each grand and petit juror so summoned shall appear before the court on the day and at the hour specified in the summons and shall not depart therefrom without leave of the court.

§ 12, c. 19, Pol.C.

**§ 456. Court may order jury forthwith.** If all persons summoned as grand and petit jurors do not appear before the court, or if for any cause the panel of the grand or petit jurors is not complete, or if no jury is drawn as above provided, the court may order the sheriff, deputy sheriff or coroner to summon without delay the required number of persons having the qualifications of jurors; and the persons so summoned shall forthwith appear before the court, and if competent shall serve on the grand or petit jury as the case may be, unless such persons are excused from serving or are successfully challenged.

§ 13, c. 19, Pol.C.  
am'd.

**§ 457. Summons to complete special panel.** Whenever the panel of petit jurors shall be exhausted by the challenges of either party in any action, the judge of the court shall order the sheriff, deputy sheriff or coroner to summon without delay a sufficient number of persons possessing the qualifications of jurors to complete the number requisite for a jury in that particular case.

§ 14, c. 19, Pol.C.

**§ 458. Citizens to be selected as jurors in rotation.** It shall be the duty of the respective boards in selecting and furnishing to the clerk the number of persons qualified to serve as grand and petit jurors so to select and arrange the names that no one person shall come on the jury a second time before all qualified persons

shall have served respectively in rotation, according to the best information that can be obtained.

**§ 459. Penalty for failure or refusal to appear.** If any person summoned to appear as a grand or petit juror fails, refuses or neglects to appear, such person shall be deemed guilty of contempt of court, and may be fined by the court in any sum not less than five nor more than fifty dollars; and if any person, when a second order or attachment is issued, neglects or refuses to appear, such person may be fined as above provided and imprisoned by the court not longer than ten days in the county jail; and if the board of county commissioners, township board of supervisors, the board of aldermen or city council of any city, or the board of trustees of any village shall willfully neglect or fail to select and furnish to the clerk names of persons as hereinbefore provided, the person so offending may be fined by the court not less than five nor more than fifty dollars; and if any officer shall fail to perform any of the duties imposed upon him by this article, he shall be deemed guilty of contempt of court, and may be fined by the court not less than five nor more than fifty dollars, and if guilty of gross misconduct in office and contempt in disregarding the provisions of this article he may be imprisoned in the county jail not longer than thirty days. § 15. c. 19, Pol. C.

#### ARTICLE 11. — ADMINISTRATION OF OATHS.

**§ 460. Officers authorized to administer oaths.** The following officers are authorized to administer oaths: § 1. c. 20, Pol. C.  
§ 1. c. 106, 1890,

Each judge of the supreme court.

Each judge of the district court.

The clerk of the supreme court and his deputy.

Clerks of the district court, county auditors and registers of deeds and their deputies within their respective counties.

County commissioners within their respective counties.

Judges of the county courts.

Justices of the peace and notaries public within their respective counties.

City clerks or auditors, township clerks and village recorders within their respective cities, townships and villages. Each sheriff and his deputy within their respective counties in the cases provided by law. Other officers in the cases specially provided by law.

**§ 461. Persons may affirm, when.** Persons conscientiously opposed to swearing may affirm, and shall be subject to the penalties of perjury as in case of swearing. § 2. c. 20, Pol. C.

#### ARTICLE 12. — NOTARIES PUBLIC.

**§ 462. Appointment and qualifications of notaries public.** The governor shall appoint in each county in this state from among the citizens of either sex one or more notaries public, who shall hold office for six years, unless sooner removed by the governor, each of whom shall have power and authority anywhere in the state to administer oaths and perform all other duties required of them by law; but the person to be eligible to such appointment must at the time of appointment have the qualifications of an elector as to age, residence and citizenship. § 1. c. 76, 1883.  
am'd.

**§ 463. Commission. Record. Fee and notice.** The secretary of state shall issue a commission and duplicate thereof to each notary § 2. c. 76, 1883.  
am'd.

public appointed by the governor, one of which shall be by such notary posted in a conspicuous place in his office; and the secretary of state shall collect and receive five dollars for the issuance of such commission and duplicate, which sum shall be paid into the state treasury and credited to the general fund. The secretary shall keep in his office a record of such appointments and the date of the expiration of the same, and shall notify each notary public by mail at least thirty days before the expiration of his term of the date upon which his commission expires, which notice shall be addressed to such notary public at his last known place of residence.

§ 3, c. 76, 1893.  
am'd.

**§ 464. Oath and bond.** Each notary public before entering upon the duties of his office shall take the oath prescribed in section 211 of the constitution; and he shall give a bond to the state with one or more sureties, to be approved by the clerk of the district court of his county or of the county to which the same is attached for judicial purposes, in the penal sum of five hundred dollars, conditioned for the faithful discharge of the duties of his office.

§ 4, c. 76, 1893.  
am'd.

**§ 465. Vacancy. Disposition of records.** Whenever the office of any notary public shall become vacant, the record of such notary together with all papers relating to the office shall be deposited in the office of the clerk of the district court of the county or judicial subdivision in which such notary public resides, and any notary public who on resignation or removal from office, or any executor or administrator of any notary public who neglects to deposit such records and papers as aforesaid for the space of three months, or any person, who knowingly destroys, defaces or conceals any records or papers of any notary public, shall forfeit and pay a sum of not less than fifty nor more than five hundred dollars, and he shall also be liable in a civil action for damages to any party injured.

§ 5, c. 76, 1893.  
am'd.

**§ 466. Duty of notary.** Each notary public, when any bill of exchange, promissory note or other written instrument, shall be by such notary public protested for non-acceptance or non-payment, shall give notice in writing thereof to the maker, and to each and every indorser of such bill of exchange, and to the maker of each security or the indorsers of any promissory note or other written instrument immediately after such protest shall have been made.

§ 6, c. 76, 1893.

**§ 467. Service of notice.** Each notary public shall serve notice personally upon each person protested against, or by properly folding the notice, directing it to the person to be charged at his place of residence according to the best information that the person giving the notice can obtain, depositing it in the United States mail or post office most conveniently accessible and prepaying the postage thereon.

§ 7, c. 76, 1893.

**§ 468. Protest fee.** The notary public making such protest shall be entitled to charge and receive the sum of twenty-five cents and postage for each notice so made out and served.

§ 8, c. 76, 1893.  
am'd.

**§ 469. Record of notices.** Each notary public shall keep a record of all such notices and of the time and manner in which the same were served and of the names of all the persons to whom the same were directed, also the description and amount of the instrument protested, which record or a copy thereof certified by the notary under seal shall at all times be competent evidence to prove such notice in any court of this state.

§ 9, c. 76, 1893.  
am'd.

**§ 470. Clerks of district courts to preserve records.** The clerk of the district court shall receive and safely keep all the records and papers directed by this article to be deposited in his office and to



furnish certified copies thereof when required, and such copies shall have the same force and effect as if the same were certified to by the notary public by whom the record was made.

§ 471. **Impression of seal. Filing oath and bond.** Each notary public before entering upon the duties of his office shall provide an official seal and deposit an impression of the same together with his oath and bond in the office of the secretary of state. § 10. c. 76, 1893. am'd.

§ 472. **Commission recorded with clerk of the district court.** He shall before entering upon the duties of his office file his commission for record with the clerk of the district court of the county or judicial subdivision and shall deposit with such clerk an impression of his seal together with his official signature; and such clerk shall record the same in a book to be kept for that purpose; and it shall be deemed sufficient evidence to enable such clerk to certify that the person so commissioned is a notary public during the time such commission is in force. § 11. c. 76, 1893.

§ 473. **Removal from county. Requirements.** Whenever a notary public shall change his place of residence from the county or subdivision in which he was first appointed to another county or subdivision, it shall be necessary to comply with the preceding section before performing any official act in such county or subdivision. § 12. c. 76, 1893.

§ 474. **Revocation of commission. Notice.** In case the commission of any person so appointed is revoked, the secretary of state shall immediately give notice thereof by mail to such person and to the clerk of the district court of the proper county. § 13. c. 76, 1893. am'd.

§ 475. **Acting when disqualified. Penalty.** Any notary public who exercises the duties of his office with knowledge that his commission has expired or that he is otherwise disqualified, or who appends his official signature to any document when the parties thereto have not appeared before him, is guilty of a misdemeanor and on conviction is punishable by a fine of one hundred dollars for each offense, and shall also be removed from office by the governor. § 15. c. 76, 1893. am'd.

## CHAPTER 8.

### ELECTIONS.

#### ARTICLE 1. — GENERAL PROVISIONS.

§ 476. **Governs all but special elections.** All elections for state, district, county, township, city and ward and other officers provided by law, shall hereafter be held and conducted in the manner prescribed in this chapter, except as otherwise specially provided by law. § 1. c. 27, Pol. C. am'd.

§ 477. **General election, when held.** On the first Tuesday after the first Monday in November of each even numbered year an election shall be held in the several election districts of the state which shall be known as the general election, and the several state, district and county officers, judges of the supreme and district courts, members of the legislative assembly and the member of the congress of the United States, shall be elected at the general election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at special elections, and on a year when a president and a vice president § 1. H. B. No. 1, S. 1. 1892.

of the United States are to be chosen a number of electors of president and vice president of the United States equal to the number of senators and representatives to which this state is entitled in the congress of the United States shall be elected at such election.

§ 43, c.27, Pol.C.

**§ 478. Highest number of votes elects.** In all elections for the choice of any officer, unless it is otherwise expressly provided, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office.

§ 47, c.27, Pol.C.

§ 1, c. 52, 1885.

am'd.  
§ 121, Const.

**§ 479. Who entitled to vote.** Every male person of the age of twenty-one years or upwards who shall have been a resident of this state one year, six months in the county and ninety days in the precinct next preceding the election, who is a citizen of the United States or has declared his intention to become such one year and not more than six years prior to such election conformably to the naturalization laws of the United States, or any person of Indian descent who shall have severed his tribal relation two years next preceding such election, shall be entitled to vote; provided, he has complied with the provisions of any law which is now or may in the future be in force relating to the registration of voters. And all persons possessing the qualifications mentioned in this section and who have resided in this state one year shall be eligible to any office in the state, except as otherwise provided in the constitution; provided, however, that persons shall vote in the precinct where they reside and not elsewhere.

§ 1, c. 58, 1895.

**§ 480. Qualifications of Indian voters.** No Indian or person of Indian descent who has not received a final patent conveying the title in fee of lands allotted to him within the boundaries of this state, pursuant to an act of the congress of the United States, approved February 8, 1887, and entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the territories over the Indians, and for other purposes," shall be deemed a qualified elector of the state of North Dakota, or be entitled to the rights and privileges of an elector therein unless he was born within the limits of the United States, and has voluntarily taken up his residence within this state separate and apart from any tribe of Indians therein, and adopted the habits of civilized life, and is in no manner subject to the authority of any Indian chief or council or Indian agent of the United States.

ARTICLE 2.—ELECTION PRECINCTS.

§ 7, c. 66, 1891.  
am'd.

**§ 481. Precincts, how formed.** The board of county commissioners of each county in the state shall at its first session after the taking effect of this code divide its county into election precincts and establish the boundaries of the same if it has not heretofore done so. The entirety of civil townships, cities or villages as voting precincts shall be preserved when possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships or part of a township and city or village. Such board of commissioners shall designate one voting place in each precinct. No precinct shall contain more than three hundred electors. If at any election hereafter held more than three hundred votes shall be cast at any voting place it shall be the duty of the inspector in such precinct to

report such fact to the board of county commissioners which board shall at its next regular meeting divide such precinct as nearly as possible so that the new precincts formed therefrom shall each contain two hundred and fifty electors as nearly as practicable.

§ 482. **Precinct, how construed.** The word precinct as used in the constitution shall be construed to mean any incorporated city, and it is made the duty of the city council of such incorporated city to establish as many voting places in such precinct as may be necessary under the law, and such council shall define by ordinance the qualifications precedent for a voter removing from one voting subdivision to another within such incorporated precinct.

### ARTICLE 3.—ELECTION OFFICERS AND THEIR DUTIES.

§ 483. **Inspectors and judges of elections. Qualifications of. Duties.** The chairman of the board of supervisors in organized townships shall by virtue of his office be inspector of elections. In case the township contains more than three hundred voters such chairman shall be inspector of elections for the precinct in which he resides and shall appoint the inspector in all other precincts which are component parts of the township of which he is chairman. In all cities in which the aldermen are elected in different years, the senior alderman shall be inspector of elections for the precinct in which he resides, and in cities in which the aldermen are not so elected, the alderman who shall act as inspector of elections shall be determined by lot in such manner as the city council shall prescribe. In case a ward in any city contains more than three hundred voters the senior alderman or the alderman chosen by lot shall be inspector of elections for the precinct in which he resides and shall appoint the inspectors in all other precincts which are component parts of the ward of which he is alderman. In incorporated towns and villages the president of the town or village board of trustees shall act as inspector, and, if the town or village contains more than three hundred voters, he shall act as inspector of the precinct in which he resides and appoint the inspectors in the other precincts. In case the alderman designated or selected to act as inspector in any ward is disqualified from acting, the other alderman of the ward shall act as inspector and appoint other inspectors when necessary, and in case the president of the board of trustees of any town or village is disqualified the remaining members of the board shall select one of their number to act as such inspector and appoint other inspectors when necessary. The inspector shall, prior to the opening of the polls in his precinct, appoint as judges of election two qualified electors of such precinct, who shall have been resident freeholders therein for at least ninety days next preceding such election, and who are members of different political parties and of the parties which cast the highest number of votes at the preceding general election; provided, that if at least one week prior to such election the chairman of the county central committee of either of the two parties that cast the largest number of votes in the state at the last general election, shall nominate a member of such party as judge, having the qualifications above prescribed, presenting a certificate of such nomination signed by such chairman, he shall be appointed by the inspector, and such

§ 5, c. CO. 1893.  
am'd.

judges together with the inspector shall constitute the board of election. No person shall be a member of the board of election who has anything of value bet or wagered on the result of such election or who is a candidate or who is the father, father-in-law, son, son-in-law, brother, or brother-in-law of any candidate at such election. If at any time before or during an election it shall be made to appear to any inspector by the affidavit of two or more qualified electors of the precinct that either of the judges is disqualified under the provisions of this section he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed and in case such person so disqualified shall have taken the oath of office as prescribed by law the inspector shall place such oath and affidavit before the state's attorney of the county; provided, that in case such inspector is disqualified from acting, the other two members of the board of township supervisors and the clerk shall, at least ten days before the date of holding the election, hold a meeting for the purpose of filling such vacancy. Such vacancy shall be filled by appointing an inspector who shall belong to the same political party as the disqualified inspector and the name of the inspector so appointed shall at once be reported to the county auditor by such clerk.

§ 16 b. c. 66, 1891,  
am'd.

**§ 484. Inspectors of election in unorganized townships, how appointed.** In precincts consisting of unorganized townships the board of county commissioners shall at the July session of such board next preceding an election appoint in each precinct, as inspector of such election, some qualified elector of such precinct. Such inspector shall before the time of opening the polls in his precinct appoint two judges of election as provided in the preceding section and such judges and inspector shall constitute the board of election for that precinct. If any member of the board of election shall fail to appear at the hour appointed for the opening of the polls the remainder of the board shall select a member of his political party to serve in his stead; provided, that if the qualified electors of his party present at the polls shall nominate a qualified person for such vacancy, such nominee shall be appointed. If none of the members of the election board shall appear at the hour appointed for opening the polls the qualified electors present shall elect a board viva voce as nearly as possible in conformity with the provisions hereof.

§ 16 c. c. 66, 1891.

**§ 485. Poll clerks.** Such board of election shall appoint as poll clerks two qualified electors of the precinct, one from each of the two parties that cast the largest vote at the last state general election.

§ 8, c. 27, Pol. C.

**§ 486. Oath of election officers.** Previous to the votes being taken the inspectors, judges and clerks of election shall severally take and subscribe an oath in the following form: "I, A. B., do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge or clerk (as the case may be) according to law and the best of my ability; and that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same."

Such oath may be taken before any officer authorized to administer oaths, and in case no such officer is present at the opening of the polls the inspector or judges of election are authorized to administer such oath to each other and to the clerks of election; and the person administering such oath shall cause an entry thereof to be made and subscribed by him and prefixed to the poll book.

§ 487. **Poll list, clerk to keep.** Each clerk of election shall keep a poll list which shall contain in numerical order the names of all the persons voting at such election. § 19, c. 27, Po'.C.

§ 488. **Duty of inspector and judge to challenge.** If any inspector or judge of election shall know or have reason to believe that any person offering to vote is not a qualified elector it shall be his duty to challenge the right of such person to vote. § 23, c. 27, Po'.C.  
am'd.

#### ARTICLE 4.—ELECTION SUPPLIES.

§ 489. **Ballots to be printed and distributed at public expense.** At all general or special elections for state, district, county, city, township, village or other public officers within this state, including elections in cities, towns and villages incorporated by special act, all ballots cast shall be printed and distributed at public expense as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county and the delivery of the same to the election officers as hereinafter provided shall be a county charge and for municipalities a municipal charge, the payment of which shall be provided for in the same manner as other county and municipal expenses; provided, that the provisions of this chapter shall not apply to elections for civil township or school district officers, nor to elections in incorporated cities and villages having less than three hundred legal voters as evidenced by the vote cast therein at the last preceding city or village election. 17. c. 66, 1891.  
1. c. 60, 1893.  
am'd.

§ 490. **Elector may write name of candidate on ticket, when.** Except as otherwise provided in this chapter it shall be the duty of the auditor of each county to provide printed ballots for every election for public officers in which the electors or any of the electors within the county participate and he shall cause to be printed on the ballots the name of each candidate whose name has been certified to or filed with him in the manner provided for in this chapter. Ballots other than those printed by the respective county auditors shall not be cast or counted in any election. Nothing in this chapter shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote and such vote shall be counted the same as if printed on the ballot and marked by the voter. § 15, c. 68, 1891.

§ 491. **Ballots, how prepared. Arrangement of names.** All ballots prepared under the provisions of this chapter shall be white and of a uniform quality of paper and the name shall be printed thereon in black ink, and to the left of and not more than one-fourth of an inch from such printed name and blank space wherein names may be written, shall be a circle not less than three-eighths of an inch in diameter. At the head of each ballot shall be printed the name or designation of every political party represented on such ballot. Each ballot shall contain the name of each candidate whose nomination has been certified according to law, and none other. The candidates of the party casting the highest number of votes in the state for member of congress at the last preceding general election shall be arranged in the first or left hand column of such ballot; of the party casting the next highest number of votes in the state in the second column; of the party casting the next highest number of votes in the third column; and of any other party as the secretary of state may direct for state officers, or the county auditor for county officers; the municipal or city auditor, or in municipalities or cities not having a 17. c. 66, 1891.  
6. c. 60, 1893.  
am'd.

municipal or city auditor, the municipal or city clerk for municipal or city officers, or the president of the board of trustees of corporate villages for village officers. The names of electors of president and vice president of the United States presented in one certificate of nomination shall be arranged in a group and placed at the head of the column under the party designated or represented in such certificate. Below the candidates for each office shall be left a blank space large enough for the name of a candidate to be written in. There shall be a margin on each side at least one-half an inch in width and a reasonable space between the names printed thereon so that the voter may clearly indicate, in the manner hereinafter provided, the candidate for whom he wishes to vote. Whenever the secretary of state has duly certified to the auditor any question to be submitted to a vote of the people the auditor shall have printed on the regular ballots the question in such form as will enable the elector to vote upon the question so presented in the manner hereinafter provided. The auditor shall also prepare the necessary ballots whenever any question is required by law to be submitted to a vote of the electors of any subdivision and not to the state generally. The municipal or city auditor or clerk, as the case may be, shall prepare and direct the printing and distributing of all ballots for municipal or city elections and for all questions that may be submitted to a vote of the electors of such municipality, except as provided in section 489.

§ 18, c. 66, 1891.  
 § 7, c. 60, 1893.  
 am'd.

**§ 492. County auditor to prepare ballots. Number. Poll books.** The county auditor of each county shall provide for each election precinct in his county two ballots for each vote cast in such precinct at the last general election. Such ballots shall be distributed in packages or blocks containing not more than one hundred and fifty ballots each. The county auditor may provide for any such precincts such additional ballots as he may deem necessary. Each county auditor shall, at least five days before any election, have the ballots printed and the same may be inspected in the office of such auditor by any person. Such auditor shall also, at least five days before any election, send to the inspector in each precinct five copies of such ballot printed upon tinted paper and such inspector shall post the same in five public places in his precinct, one of such copies to be posted at the polling place therein, for which services such inspector shall receive two dollars. The auditor shall at the time of distributing such copies cause to be delivered to the several inspectors the necessary number of blank forms of poll books and also blanks for the election returns with the proper captions, forms of oath and forms of certificates and tally sheets necessary to carry out the provisions of this chapter.

§ 20, c. 66, 1891.  
 am'd.

**§ 493. Ballots, how delivered. Official stamps.** Each county auditor shall deliver or cause to be delivered by mail or other reliable method to the inspector of election in each precinct in his county the official ballot prepared by him at least twenty-four hours before the hour of opening the polls on election day. Such ballots shall be delivered in sealed packages marked on the outside plainly designating the number of ballots inclosed and the precinct for which they are intended. He shall also deliver or cause to be delivered to such inspector or, if that is impracticable, to one of the judges of election of such precinct a stamp with an ink pad for the purpose of stamping each ballot with the words, "Official Ballot" and the name or number of the precinct, the name of the county and the date of the election.

§ 494. **Instructions to be printed.** Each county auditor shall cause to be printed on cards in large type full instructions to electors as to the manner of obtaining and preparing ballots and also containing a copy of sections 558, 559, 6884 and 6885. He shall furnish ten such cards to the judges of election in each election precinct and the judges of election shall at the opening of the polls post at least one of such cards in each booth or compartment provided for the preparation of ballots and at least three of such cards in and about the polling place. There shall also be posted in each booth or compartment one of the official ballots without the official stamp hereinbefore provided for, and not less than three of such ballots shall be posted in other places in and about the polling place upon the morning of election. § 29, c. 66, 1891.

§ 495. **Poll books, contents of and how delivered.** It shall be the duty of the county auditor to provide uniform poll books for the use of his county, each poll book to contain a copy of the law prescribing the qualifications of electors and so much of this chapter as relates to the duties of inspectors, judges and clerks of election, and the penalties imposed for offenses; such poll book shall also contain blanks for all entries required to be made therein; he shall also deliver to the sheriff two copies of said poll books for each election precinct in the county, and the sheriff shall deliver the same to each inspector of election, and such inspector of election shall deliver or cause the same to be delivered to the clerks of election in his precinct on the day of election. § 46, c. 27, Pol.C. am'd.

§ 496. **Ballot boxes to be provided by board of county commissioners.** The board of county commissioners shall at the expense of the county provide suitable ballot boxes for each election precinct in its county, and a separate ballot box in which the ballots of women entitled to vote under this chapter shall be deposited.

§ 497. **Blanks to be transmitted by secretary of state.** The secretary of state shall at least thirty days before each general election transmit to each county auditor blank forms and envelopes for all returns of votes required to be made to his office, with such printed directions on the envelope as he deems necessary for the guidance of such officers in making returns according to law; and the expenses of furnishing such blanks and envelopes shall be paid for by the state. § 48, c. 27, Pol.C.

#### ARTICLE 5.—NOMINATIONS FOR OFFICE.

§ 498. **Nominations, how made.** Any assembly or convention of delegates held for the purpose of making nominations to public office, or electors to the number hereinafter specified, may nominate candidates for public office to be filled by election within the state. Public printed or posted notice of holding such assembly or convention must be given at least six days before the holding of the same. Such nomination shall be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed herein, a certificate of nomination for each candidate. An assembly or convention within the meaning of this chapter is an organized assemblage of delegates representing a political party or principle which cast five per cent of the total number of votes cast for member of congress at the last general election. § 2, c. 66, 1891. § 2, c. 60, 1893. am'd.

§ 3. c. 66, 1891.  
am'd.

**§ 499. Nominations certified, how.** All nominations made by such convention shall be certified as follows: the certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his post office address and the office for which he is named and shall designate in not more than five words the party or principle which such convention represents, and it shall be signed and verified by the presiding officer and secretary of such convention who shall add to their signatures their post office address. Such certificate made out as herein required shall be delivered by the secretary or president of such convention by registered letter or in person, without charge, to the secretary of state or to the county auditor as hereinafter required.

§ 4. c. 66, 1891.  
§ 4. c. 60, 1893.  
am'd.

**§ 500. Certificates of nomination, where filed.** Certificates of nomination for candidates for offices to be filled by the electors of the entire state or of any division or district greater than a county and for legislative offices shall be filed with the secretary of state; certificates of nomination for county officers shall be filed with the county auditor of the respective counties wherein the officers are to be elected; certificates of nomination for municipal officers shall be filed with the city auditor or clerk of such municipality.

§ 5. c. 66, 1891.  
§ 3. c. 61, 1893.  
am'd.

**§ 501. Nominations not by convention, how made.** Candidates for public office may be nominated otherwise than in convention in the manner following: a certificate of nomination containing the name of a candidate for the office to be filled with such information as is required to be given in certificates provided for in section 499 shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected, in the following number: the number of signatures shall not be less than three hundred when the nomination is for an office to be filled by the electors of the entire state and when the office is to be filled by the electors of a district less than the entire state the number of signatures shall not be less than ten per cent of the number of votes cast for member of congress at the last preceding general election, and when the office to be filled is in an incorporated city, town or village the number of signatures shall not be less than ten per cent of the number of votes cast at the last preceding election held therein; provided, that in no case shall more than three hundred signatures be required. Such signatures need not be appended to one paper. Each elector signing a certificate shall add to his name his post office address. Such certificate may be filed as provided for in section 500 in the same manner and with the same effect as a certificate of nomination made by a party convention. The number of electors necessary to hold a mass convention shall be the same as the number of signatures required to nominate by petition.

§ 6. c. 66, 1891.  
am'd.

**§ 502. Certificate to contain but one name.** No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall participate directly or indirectly in the nomination at caucus, in convention or by petition of more than one person for each office to be filled and no person shall accept a nomination for more than one office.

§ 8. c. 66, 1891.  
am'd.

**§ 503. Certificates of nomination, when to be filed.** Certificates of nomination, to be filed with the secretary of state shall be filed not less than thirty days before the day fixed by law for the election of the persons in nomination. Such certificates of nomination



may be sent by registered letter deposited in the post office on or before the last day and the receipt therefor filed with the county auditor. Certificates of nomination herein directed to be filed with the auditor shall be filed not less than twenty days before the election; but the provisions of this section shall not apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise. The secretary of state and the several county auditors shall cause to be preserved in their respective offices for six months all certificates of nominations filed therein under the provisions of this article. All such certificates shall be open to public inspection under proper regulations to be made by such officers.

**§ 504. Secretary of state to certify nominations for state office.** Not less than twenty-five nor more than thirty days before an election to fill any state or district office the secretary of state shall certify to each county auditor within which any of the electors may by law vote for candidates for such office the name and post office address of each person nominated for such office as specified in the certificates of nomination filed with him.

§ 9, c. 66, 1891.  
am'd.

**§ 505. Nominations to be published, when.** At least ten days before an election to fill any public office under the provisions of this chapter the county auditor of each county shall cause to be published in one or more newspapers within the county the nominations certified to him under the provisions of this chapter. The auditor shall make such publications daily until the election, in counties where daily newspapers are published; but if there is no daily newspaper published within the county two publications in each newspaper will be sufficient; and if there is no newspaper published in any county, written or printed notices shall be posted in at least three public places in each precinct.

§ 10, c. 66, 1891.  
am'd.

**§ 506. In case nominee declines, certificate void.** Whenever any person nominated for public office as in this chapter provided shall, at least twenty-five days before election, in writing notify the officer with whom the certificate nominating him is filed that he declines such nomination, such nomination shall be void.

§ 11, c. 66, 1891.

**§ 507. Vacancies on ticket, how filled.** Should any person so nominated die before the printing of the tickets or decline the nomination as in this chapter provided or should a vacancy occur upon the ticket for any other cause the vacancy thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, the committee of the political party in whose ticket such vacancy occurs may fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the name of the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies and such further information as is required to be given in an original certificate of nomination. When such certificate shall be filed with the secretary of state he shall, in certifying the nomination to the various auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And if he has already forwarded his certificate he shall forthwith certify to the auditor of the proper county the name and post office address of the person so nominated to fill a

§ 12, c. 66, 1891.  
am'd.

vacancy, the office he is nominated for, the party or political principle he represents and the name of the person for whom such nominee is substituted. A failure to publish the name of a person so substituted shall not invalidate the election.

§ 13. c. 66, 1891.

**§ 508. Vacancy occurring after tickets are printed.** When any vacancy occurs before election day and after the printing of the tickets and any person is nominated according to the provisions of this chapter to fill such vacancy the officer whose duty it is to have the tickets printed and distributed shall thereupon have printed on a requisite number of stickers the name of such substituted candidate and no other name, and shall mail them by registered letter or send by other reliable method to the judges of election in the various precincts affected by such vacancy, and the judges of election whose duty it is to distribute the tickets shall affix such stickers in the proper place on each ticket before it is given out to the electors.

§ 14. c. 66, 1891.

**§ 509. Constitutional amendments to be advertised.** Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote the secretary of state shall, not less than thirty days before election, certify the same to the auditor of each county in the state and the auditor of each county shall include the same in the publication provided for in section 505. Questions to be submitted to the people of the county shall be advertised as provided for nominees for office in such section.

§ 19. c. 66, 1891.  
am'd.

**§ 510. Publication of names. Error how corrected.** Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names of the persons nominated or in the printing of the ballots the judge of the district court may upon application of an elector make an order requiring the auditor to show cause why such error should not be corrected and upon the hearing thereof he may make such order as the facts warrant.

ARTICLE 6.—NOTICE OF ELECTION.

§ 2, H. B. No. 1,  
Sp. 1892.

**§ 511. Notice of election, how given.** The secretary of state shall, between the first days of July and September in such year, direct and cause to be delivered to the county auditor of each county a notice specifying all the state officers whose term of office will expire between the first Monday in December and the first Monday in January next succeeding and specifying also the several officers to be chosen in such county at the next general election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in the next section.

§ 6, c. 27, Pol. C.  
5. c. 51, 1887.

**§ 512. Notice of election to be published. Form. Posted, when.** The county auditors of the several counties shall cause notice of any election to be published in each of the newspapers designated by the board of county commissioners for the publication of their official proceedings at least once in each week for four consecutive weeks next preceding such election. Such notice shall be as nearly as circumstances will admit, as follows:

Notice is hereby given that on Tuesday, the . . . . . day of . . . . . next, at . . . . ., in the township or precinct of . . . . . in the county of . . . . . an election will be held for state, district or county officers (naming the offices to be filled as the case may be), which election will be opened at eight o'clock in the morning and will continue open until five o'clock in the afternoon of that day. Dated this . . . . day of . . . . . A. D. 18..

(Signed) A. B., County Auditor.

In case there shall be no newspaper published in the county in which such election is to be held, the county auditor shall deliver three copies of such notice for each precinct to the sheriff, coroner or other person designated by the board of county commissioners and such sheriff, coroner or other person shall post in three of the most public places in each precinct the notice pertaining to such precinct, at least twenty days previous to the time of holding any general election and at least eight days previous to the time of holding any special election, and in cases where townships are not set off by law as election districts, such notices shall be posted as follows: one at the house where the election is authorized to be held and two at two of the most public places in that vicinity. The officer or person shall thereafter file with the county auditor an affidavit of such posting which shall be prima facie evidence of the facts therein stated.

#### ARTICLE 7. — CONDUCT OF ELECTIONS.

**§ 513. When polls to be opened and closed.** At all elections held under the provisions of this chapter the polls shall be open at eight o'clock A. M. and closed at five o'clock P. M. Twenty minutes prior to five o'clock P. M. the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at five o'clock P. M. § 40, c. 66, 1891.

**§ 514. Examination of ballots and box at opening of polls.** On the opening of the polls the inspector in each precinct shall produce the sealed package of official ballots and publicly open the same and deliver one block of ballots to the ballot clerk, retaining the other blocks if any until they are needed for voting. Before declaring the polls open such inspector shall see that the ballot box is empty and allow the judges to satisfy themselves thereof after which such box shall be locked. § 21, c. 66, 1891.

**§ 515. Official ballot, how given to elector.** The inspector or one of the judges of election shall deliver ballots to the qualified electors. Before delivering any ballot to an elector the inspector or judge shall print on the back and near the top of the ballot with a stamp provided for that purpose, the designation "official ballot" and the other words provided for in section 493 and also write his initials thereon. Each qualified elector shall be entitled to receive from the judges one ballot. § 23, c. 66, 1891.

**§ 516. Marking ballots. Manner of voting.** On receipt of his ballot the elector shall forthwith and without leaving the polling place retire alone to one of the booths or compartments provided, to prepare his ballot by placing a cross (X) mark within the circle before the name of each person for whom he wishes to vote, or the elector may write in the blank space or paste over any other name the name of any person for whom he may wish to vote, but the name of no candidate shall be counted which has not the cross (X) mark either written or printed within the circle, before such name; or in case of a ballot containing a constitutional amendment or other question to be submitted to a vote of the people, by placing a cross-mark within the circle before the word or words expressing his wish and for which he desires to vote. After preparing his ballot the elector shall fold it so that the face of the ballot will be concealed and the indorsement stamped thereon may be seen. He shall then § S. c. 67, 1893, am'd.

vote forthwith and before leaving the polling place and after voting he shall immediately leave the room.

§ 25. c. 66, 1891.

**§ 517. Only one person in booth.** Not more than one person shall be permitted to occupy any one booth or compartment at one time and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot and in no event longer than five minutes when the other booths or compartments are occupied.

§ 26. c. 66, 1891.

**§ 518. In case elector spoils ballot.** No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot. The ballots thus returned shall be immediately canceled and together with those not distributed to the voters shall be preserved and secured in sealed packages and returned to the county auditor from whom received.

§ 27. c. 66, 1891.  
am'd.

**§ 519. In case of disability of elector.** Any voter, who declares to the judges of election or when it appears to the judges of election that he cannot read or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of two of the election officers in the marking thereof who shall be chosen from different political parties, and such officers shall give no information regarding the same. The judges may in their discretion require such declaration of disability to be made by the voter under oath and they are authorized to administer such oath. No elector, other than one who is unable to read or on account of physical disability is unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or ask or receive the assistance of any person within the polling place in the preparation of his ballot.

§ 18. c. 27, Pol.C.

**§ 520. Judges to deposit ballot in box.** When a ballot shall be received one of the judges without opening the same or permitting it to be opened or examined except to ascertain whether it is a single ballot or not shall deposit it in the ballot box.

§ 22. c. 66, 1891.  
am'd.

**§ 521. Election booths, how built.** The inspectors of election shall provide in their respective polling places a sufficient number of booths or compartments which shall be furnished with such supplies and conveniences as to enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation, and a guard rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot boxes or the booths or compartments herein provided for. The number of such booths or compartments shall not be less than one for each fifty electors or fraction thereof in the precinct. No election shall be held in a room in which spirituous or malt liquors are commonly sold. Not more than one elector for each booth shall be permitted within the railing at any one time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing at the outside. If any person offering to vote shall be challenged by one of such challengers or by any member of the board of election, such person shall, unless such challenge is withdrawn, stand aside and shall not vote unless he makes an affidavit that he is a legally qualified elector of the precinct. The expense of providing such booths or

compartments and guard rails shall be a public charge and shall be provided for in the same manner as other election expenses.

**§ 522. Ballots of women to be deposited in separate box.** No ballot offered by any woman entitled to vote under this chapter shall contain the name of any person to be voted for at such election, except candidates for a school office, and no such ballot shall contain any proposition to be voted for except such as pertain solely to school matters; and all such ballots shall be deposited in a separate ballot box, but shall be canvassed with the ballots cast for candidates for school office by the male voters at such election.

#### ARTICLE 8. — CANVASS OF RETURNS.

**§ 523. Canvass of votes.** As soon as the polls of the election shall be finally closed the inspectors shall proceed immediately to canvass publicly in the presence of all persons desiring to attend the same the votes received at such polls and continue without adjournment until the canvass is completed and the statements hereinafter required are made. They shall commence by a comparison of the poll lists and the correction of any mistakes therein until they shall be found or made to agree. The box shall then be opened and the ballots therein taken out and counted by the inspectors, unopened, except so far as to ascertain whether each ballot is single; and if two or more ballots are found so folded together as to present the appearance of a single ballot they shall be laid aside until the count of the ballots is completed; and if, upon a comparison of the count and the appearance of such ballot, a majority of the inspectors shall be of the opinion that the ballots thus folded together were voted by one elector, they shall be destroyed. If the ballots in the box shall be found to exceed in number, after any such ballots folded together are destroyed, the whole number of votes on the poll lists, they shall be replaced in the box and one of the inspectors shall publicly draw therefrom by chance and without examination thereof and destroy as many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so as aforesaid being made to agree with the poll lists, the inspectors shall then proceed to open, count and ascertain the number of votes. § 35, c. 66, 1891.

**§ 524. Ballots, when void.** In the canvass of the votes, any ballot which is not indorsed as provided in this chapter by the official stamp and initials shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted; provided, that when a ballot is sufficiently plain to gather therefrom a part of the voter's intention it shall be the duty of the judges of election to count such part. § 30, c. 66, 1891.

**§ 525. Result of canvass to be immediately announced.** The inspectors shall as soon as the count is completed publicly announce the result thereof, specifying the whole number of votes cast for each office and for each candidate respectively; also the number of votes cast for and against each proposition voted for at such election. They shall immediately prepare in duplicate a statement in writing setting forth at length, in words and figures, the whole number of votes cast for each office and the names of all the persons for whom such votes were cast, together with the number of votes cast for each person; also the number of votes cast for and against each § 36, c. 66, 1891.

proposition voted upon at such election which statement they shall certify to be correct.

§ 37, c. 66, 1891.

**§ 526. Returns, how and where made. Compensation of officers.** The inspector of election, or one of the judges appointed by him, shall forthwith deliver to the clerk of the town, city or village, one of such statements and one of such poll lists together with the stamp, to be filed and preserved in his office and shall with all convenient dispatch and within three days after the election deliver the other statement to the county auditor, it having been by the judges carefully sealed up together with the other poll list with the oaths of inspectors and clerks affixed, under cover, properly directed to the county auditor, and the person delivering such returns to the county auditor shall receive as compensation therefor the sum of two dollars and mileage at the rate of five cents per mile for each mile necessarily traveled in going to and returning from such auditor's office, to be paid out of the county treasury on the warrant of the auditor. The inspector of election shall lock the ballot box after the ballots have been replaced therein in the presence of the judges, and shall send the key properly labeled with the name and number of the polling precinct at the same time as he returns the poll books and statements to the county auditor, but shall retain in safe custody the ballot box used at the election, sealed with all the ballots cast at the same replaced therein, during sixty days next after election. And it shall be his duty to cause the said box to be safely delivered to the county auditor upon the written request of the board of canvassers at any time during said sixty days. In organized townships within thirty days after said date, or in cities or villages, the inspector of elections shall deliver, if he is not himself the officer in question, the boxes to the chairman of the board of supervisors of the civil township, or mayor of the city or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody such boxes until the next election or hand them over to his successor in office to be by him safely kept until such time. At the following general election it shall be the duty of these officers to hand the ballot boxes over to the inspector of elections, and in case they have lost or destroyed them, then they shall replace them each at his own cost. In unorganized townships the inspectors of elections shall cause the ballot boxes to be safely delivered to the county auditor, between the sixtieth and ninetieth day following the election. And the same compensation shall be allowed for such delivery as is allowed in this section for returning the poll book and statement to the auditor. Any person violating any of the provisions of this section is guilty of a misdemeanor.

§ 1, c. 71, 1881.

**§ 527. Abstract of votes. Certificate of election.** On the fifteenth day after the close of any election, or as soon as the returns are received, the county auditor shall call to his assistance a majority of the county commissioners of the county or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be candidates for office, unless there is not sufficient of such officers who are not such candidates, and shall proceed to open such returns and make abstracts of the votes in the manner following: The abstract of the votes for member of congress shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of

the persons having the highest number of votes for members of the legislative assembly, county and precinct officers respectively and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; provided, that when a tie shall exist between two or more persons for the senate and house of representatives the county auditor shall give notice to the sheriff of the county who shall immediately advertise another election, giving at least ten days' notice. It shall be the duty of the county auditor of each county on receipt of the returns of any election to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. And immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state. If the county auditor is a candidate for office he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass shall call to their assistance one of the officers mentioned in this section who is not a candidate, and if there is no such officer remaining who is not a candidate, they shall call to their assistance a justice of the peace and it shall thereupon be their duty at once to attend and canvass such returns as provided by law.

**§ 528. Tie vote. Duty of county auditor.** If the requisite number of county officers shall not be elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the county auditor whose duty it is to compare the polls shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, and they shall then proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. § 32, c. 27, Pol. C.

**§ 529. Legislative districts composed of two or more counties.** When two or more counties are embraced in one senatorial district, the respective county auditors shall attend at the office of the county auditor of the senior county of such district within twenty days after the day of election, and in conjunction with the auditor of the senior county shall compare the votes cast in the several counties comprising such district; and such auditors shall immediately make out a certificate of election for the person having the highest number of votes in such district for members of the legislative assembly, which certificates shall be delivered to the persons entitled thereto on application to the county auditor of the senior county of such district. § 3, c. 74, 1881.

**§ 530. State board of canvassers. How constituted.** The secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction shall constitute the state board of canvassers, three of whom shall be a quorum for the transaction of business, and if less than a quorum of such officers attend on the day appointed for a meeting of the board, then those so attending are § 1, S. B. No. 1,  
Sp. 1892,  
am'd.

hereby authorized to summon others of the state officers sufficient to constitute a quorum, who on being notified by the officer or officers so attending, shall attend without delay and act as a member of such board.

§ 2. S. B. No. 1.  
Sp. 1892.

**§ 531. When member disqualified.** When a member of such board is a candidate for any office as to which the votes are to be canvassed by him, the governor shall designate some other state officer who shall act in his stead at the session of the board while the votes given for such member are being canvassed.

§ 3. S. B. No. 1.  
Sp. 1892.  
am'd.

**§ 532. County auditor to forward abstract of votes.** It shall be the duty of the county auditor of each county, under his official seal, to return to the secretary of state on or before the first Tuesday of December following any general election, and within thirty days following any special election, a certified abstract of the number of votes cast in his county at such election for each candidate for state and congressional offices, electors for president and vice president, judges of the supreme and district courts, members of the legislative assembly and for amendments to the constitution or proposition submitted by the legislative assembly; provided that the county auditor shall make a separate certified abstract of the votes cast for persons for electors of president and vice president of the United States. He shall seal up such separate abstract and indorse it: "Presidential Elector Returns" and without delay transmit it to the secretary of state by registered mail.

§ 4. S. B. No. 1.  
Sp. 1892.  
am'd.

**§ 533. Secretary of state to file abstracts of votes.** The secretary of state upon receipt of the certified abstract of votes from the several counties shall record the result of such election by counties and shall file and carefully preserve the certified statements so received from the county auditors, and if no such statement shall be received by him from the county auditor of any county prior to the time specified for the meeting of the state board of canvassers he may and it is his duty to dispatch a special messenger to obtain such statement, at the expense of such county, and such auditor shall on demand of such messenger make and deliver to him the statement required which the messenger shall deliver to the secretary of state to be recorded and filed by him as aforesaid. Such messenger shall be allowed the sum of ten cents per mile for each mile necessarily traveled in going to and returning from the office of such county auditor, the same to be audited by the state auditor upon the certificate of the secretary of state and the state treasurer shall present a bill for the amount so audited against the county failing to send up such returns as above provided, which bill so presented shall be audited by the board of county commissioners of such county and paid by the county treasurer.

§ 5. S. B. No. 1.  
Sp. 1892.

**§ 534. State canvassing board, meeting of.** For the purpose of canvassing and ascertaining the result of such election the state board of canvassers shall meet at the office of the secretary of state on the second Tuesday in December next after a general election and within forty days after a special election, and the secretary of state shall notify the other members of the board of the same.

§ 6. S. B. No. 1.  
Sp. 1892.  
am'd.

**§ 535. Duty of board.** The board when thus formed shall examine such certified statements of the county canvassers, and if it shall appear that any material mistake has been made in the computation of votes given for any person, or that the county canvassers in any county have omitted to canvass the votes, or any part thereof, cast



in any precinct in their county, the board may dispatch a messenger to the county auditor of such county at the expense of such county, with its requirement in writing to him to certify the facts concerning such mistake and the reason why such votes were not canvassed; and the county auditor to whom any such requirement is delivered shall forthwith make a true and full answer thereto under his hand and official seal, and deliver the same to such messenger who shall deliver the same with all convenient dispatch to the secretary of state.

§ 536. **Adjournment of board.** Such board may adjourn from day to day as may be necessary, not exceeding three days in all.

§ 7. S. B. No. 1, Sp. 1892, am'd.

§ 537. **Canvass of votes to be public.** Upon the certified statements and returns so received the board shall proceed publicly to examine and make a statement of the whole number of votes given at any such election for each and all state offices; and another statement of the votes given for member of congress, each of which statements shall show the names of the persons to whom such vote shall have been given for either of said offices, and the whole number of votes given to each, distinguishing the several districts and counties in which they are given. A majority of such canvassers shall decide all matters of disagreement, and they shall disregard all technicalities and misspelling; the use of initial letters and abbreviations of the names of candidates, if it can be ascertained from the returns for whom the votes were intended. In case there shall be no choice by reason of any two or more persons having an equal and the highest number of votes the governor shall by proclamation order a new election.

§ 8. S. B. No. 1, Sp. 1892, am'd.

§ 538. **Certificate of result.** They shall certify such statements to be correct and subscribe their names thereto and they shall thereupon determine what persons have been by the greatest number of votes duly elected to such offices, or either of them, and shall make out and subscribe on each statement a certificate of such determination and deliver the same to the secretary of state.

§ 9. S. B. No. 1, Sp. 1892.

§ 539. **Certificates of election, secretary of state to issue.** The secretary of state shall record in his office each certified statement and determination so made by said board, and shall forthwith make out and transmit to each of the persons thereby declared to be elected a certificate of election as hereinafter provided and he shall also forthwith cause a copy of such certified statement and determination to be published in a newspaper printed at the seat of government.

§ 10. S. B. No. 1, Sp. 1892.

§ 540. **Certificate for member of congress.** The certificate of the election of a member of congress shall be signed by the governor with the great seal affixed and be countersigned by the secretary of state and the governor shall cause it to be delivered to the person elected.

§ 11. S. B. No. 1, Sp. 1892.

§ 541. **Presidential electors.** The board in examining and making a statement of the votes and in determining and certifying the persons chosen as electors of president and vice president shall proceed in the manner prescribed by law to be pursued by them in the canvass for state officers, and the secretary of state shall likewise file and record such statement and determination. In canvassing the returns for presidential electors the persons having the greatest number of votes are to be declared elected; and if more than the requisite number of persons are found to have the greatest and an equal number of votes the election of one of them shall be determined by lot, to be drawn by the governor in the presence of the other canvassers.

§ 12. S. B. No. 1, Sp. 1892, am'd.

The secretary of state shall prepare three lists of the names of such electors elected at any election, procure thereto the signature of the governor, and affix the great seal of the state to the same, and deliver such certificates thus signed and sealed to said electors on or before the second Monday in January next after such election.

§ 13. S. B. No. 1,  
Sp. 1892.

**§ 542. Form of certificate.** A certificate shall be prepared by the secretary of state for each person elected, in substance as follows:

At an election held on the.....day of.....A. B. was elected to the office of.....of said state for the term of.....years from the.....day of.....in the year.....or, if to fill a vacancy, say for the residue of the term ending on the.....day of.....A. D. 18....

Given at Bismarck this.....day of.....A. D. 18....

Which certificate shall be signed by the governor and the secretary of state, and the seal of the state affixed, and be attested by at least one of the other canvassers.

§ 14. S. B. No. 1,  
Sp. 1892.

**§ 543. Constitutional amendments, etc. Certificate as to.**

For the purpose of canvassing and ascertaining the result of the votes taken at any election upon any proposed amendment to the constitution, or proposition submitted to a vote of the people by the legislative assembly, the state board of canvassers shall proceed to examine such statements, and to ascertain and determine the result and shall certify under their hands a statement of the whole number of votes given for and the whole number of votes given against such amendment or proposition, and they shall thereupon determine whether such amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and shall make and subscribe on such statement a certificate of such determination.

§ 15. S. B. No. 1,  
Sp. 1892.

**§ 544. Record of result.** The secretary of state shall record in his office such certified statements and determination; and if it shall appear that such amendment or proposition has been approved, ratified or adopted as aforesaid, he shall also make a record thereof, and cause such record to be bound in the volume containing the original enrolled law passed at the next succeeding session of the legislative assembly, and cause such record to be published with such laws.

§ 16. S. B. No. 1,  
Sp. 1892.

**§ 545. What returns shall be canvassed.** The board of state canvassers, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county board of canvassers, as provided in this chapter.

§ 1. S. B. No. 2,  
Sp. 1892.

**§ 546. Proclamation of result by governor.** The governor shall, within ten days after the completion of the canvass by the state board of canvassers of the votes cast for presidential electors, as certified by the auditors of the respective counties, declare by proclamation, to be printed in some newspaper printed and published at the seat of government, the names of the several persons who have received not less than one-fifth of all the votes cast, and the number of votes received by each person, and the several persons, who have received the highest number of votes so returned, and whose election shall not have been contested and notice of such contest given to the governor within ten days after the date of such proclamation, shall be deemed and taken to be elected, and the governor shall thereupon transmit to each person so chosen a certificate of his election.

§ 41. c.27, Pol.C.

**§ 547. Informality in returns disregarded.** No election returns shall be refused by any county auditor for the reason that the

same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns for any informality in holding an election or in making returns thereof; but all returns shall be received and the votes canvassed and a certificate given to the person who may by such returns have the greatest number of votes.

§ 548. **Canvassers, how to proceed.** The county auditor and other persons constituting the county board of canvassers shall, in canvassing the election returns, disregard technicalities and misspelling, the use of initial letters or abbreviations of the name of the candidates for office, if it can be ascertained from such vote for whom they were intended; but they shall not count votes polled in any place except at established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office and punished accordingly. A majority of the members of such board shall decide all matters of disagreement.

§ 15, c. 27, Pol.C. amend.

§ 549. **Returns indorsed by secretary of state.** A memorandum of the date of the reception of all returns of votes at the secretary's office shall be made at such office on the envelope containing them.

§ 39, c. 27, Pol.C.

ARTICLE 9. — RESIGNATIONS AND VACANCIES.

§ 550. **Resignations and vacancies. Special election.** Any person who shall receive a certificate of his election as a member of the legislative assembly, county auditor, county treasurer, register of deeds, sheriff, state's attorney, clerk of the district court, county judge or county commissioner shall be at liberty to resign such office although he may not have entered upon the execution of the duties thereof or taken the requisite oath of office and when any vacancy shall happen in the legislative assembly by death, resignation or otherwise it shall be the duty of the county auditor of the county in which such vacancy occurs officially to notify the governor thereof; whereupon the governor shall issue a writ of election directed to the sheriff of such county commanding him to notify the several boards of election in his county or district to hold a special election to fill such vacancy at a time to be appointed by the governor; provided, that if there is no session of the legislative assembly between the time such vacancy occurs and the time of holding the next general election, it shall not be necessary to order a special election to fill such vacancy; and when any vacancy occurs in the office of a member of congress from this state, it shall be the duty of the governor to issue his proclamation appointing a day to hold a special election to fill such vacancy.

§ 35, c. 27, Pol.C.

§ 551. **Duty of governor in case of certain vacancies.** Should a vacancy occur in the office of a member of the legislative assembly, while in session, by death, resignation, removal or otherwise, it shall be the duty of the governor immediately upon receiving official notice thereof to proceed in the same manner as is prescribed for other cases in the preceding section.

§ 37, c. 27, Pol.C.

§ 552. **Division of legislative district subsequent to election.** If a vacancy occurs in the legislative assembly for any cause, and the county or counties comprising the district in which such vacancy occurs shall have been divided after the election of the member whose seat is vacant, and before the election to fill such vacancy, such election shall be ordered in each county in which any part of

§ 39, c. 27, Pol.C. amend.

the original county or district may be situated; but no person shall be permitted to vote at such election who does not at the time reside within the limits of the county or district in which such vacancy occurred.

§ 40, c.27, Pol.C.  
am'd.

**§ 553. Canvass and returns of elections to fill vacancies.** Votes cast at elections to fill vacancies shall be canvassed and returned as provided in other cases, and the county auditor shall without delay forward to the secretary of state the abstracts of the same.

ARTICLE 10. — PRESIDENTIAL ELECTORS.

§ 1, c. 109, 1890.  
am'd.

**§ 554. When electors convene. Vacancies, how filled.** The electors of president and vice president shall convene at the seat of government of this state on the second Monday in January next after their election at the hour of twelve o'clock noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by the death or refusal to act, neglect to attend or other cause, the electors present shall immediately proceed to fill such vacancy by ballot, by a plurality of votes, and when all the electors shall appear, or the vacancies shall have been filled as above provided they shall proceed to perform the duties required of such electors by the constitution and laws of the United States.

§1, H.P. No. 56,  
Sp. 1892.

**§ 555. Per diem and mileage of.** The electors of president and vice president of the United States shall receive the same per diem and mileage as is allowed to members of the legislative assembly, and there is hereby appropriated as a standing and continuing appropriation such a sum of money as may be necessary to pay such per diem and mileage.

ARTICLE 11. MISCELLANEOUS PROVISIONS.

§ 28, c. 66, 1891.

**§ 556. Penalty for depositing unstamped ballot.** No inspector or judge of election shall deposit in any ballot box any ballot upon which the official stamp as hereinbefore provided for does not appear. Every person violating the provisions of this section is guilty of a misdemeanor.

§ 11, c.27, Pol.C.

**§ 557. Penalty for rejecting legal vote.** Any board of election or any member of any board of election who willfully and knowingly rejects any legal vote shall be subject to a fine of fifty dollars to be collected in a civil action before any justice of the peace in the name and for the benefit of the person aggrieved.

§ 33, c. 66, 1891.

**§ 558. Penalty for failure of officer to perform duty.** Any public officer upon whom any duty is imposed by this chapter who shall willfully do or perform any act or thing herein prohibited or who willfully neglects or omits to perform any duty imposed upon him by the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof is punishable by forfeiture of his office and by imprisonment in the county jail for not less than one month nor more than six months or by a fine of not less than fifty nor more than five hundred dollars, or both.

§ 34, c. 66, 1891.

**§ 559. Electioneering prohibited. Secret ballot.** No electioneering shall be done on election day by any officer of election nor by any person within the polling place or any building in which an election is being held or within fifty feet thereof nor obstruct the doors or entrance thereto or prevent free ingress to and egress from

said building. And the inspector and judges of election shall, if they deem it necessary, appoint an election officer; such election officer, or the sheriff, constable, or other peace officer is authorized and it is his duty to clear the passageway and prevent such obstruction and to arrest any person creating such obstruction. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot, after it is marked, to any person in such a way as to reveal the contents thereof or the name of any person for whom he has marked his vote nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than the inspector or one of the judges of election having charge of the ballots nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the inspector or a judge of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof is punishable by a fine not exceeding one hundred dollars and shall be adjudged to pay the costs of prosecution.

**§ 560. Penalty for violation of election laws.** If any inspector, judge or clerk of election, county auditor or other person in any manner concerned in conducting an election shall corruptly violate any of the provisions of this chapter, he shall forfeit and pay to the county a sum not less than fifty nor more than five hundred dollars to be recovered in a civil action in the name of the proper county. § 42, c.27, Pol.C. am'd.

**§ 561. No civil process served on election day.** During the day, on which any general or special election shall be held in this state or in any district, county, city, village or precinct therein, no civil process shall be served on any person entitled to vote at such election. § 44, c.27, Pol.C.

**§ 562. Compensation of election officers.** There shall be allowed to the several inspectors, judges and clerks of election of each county two dollars per day to be paid out of the county treasury on the warrant of the auditor. § 38, c.27, Pol.C. am'd.

#### ARTICLE 12. — CONTESTING ELECTIONS.

**§ 563. Notice of contest, how served.** Any person, claiming the right to hold an office, or any elector of the proper county desiring to contest the validity of an election or the right of any person declared duly elected to any office in such county, shall give notice thereof in writing to the person whose election he intends to contest within twenty days after the canvass of the votes of such election, which notice shall be served in the same manner as a summons in a civil action. But if the person whose election is contested cannot be found and shall have ceased to have a residence in such county or state, then the notice shall be served by leaving the same at the house where such person last resided, and if no service as above provided § 1, c. 54, 1885.

can be made, or if no such residence can be found in the state the district court or judge thereof may expressly direct the manner of such service, which notice of contest shall be in writing and shall set forth the facts and grounds upon which the contestant relies in his contest, and shall be verified as a pleading in a civil action.

§ 2, c. 54, 1885, am'd.

§ 564. **Answer to notice of contest.** Any person, upon whom the notice mentioned in the preceding section is served, shall within ten days after such service answer such notice, admitting or denying the facts alleged therein, and he shall state any other grounds upon which he rests the validity of his election, and shall serve a copy of such answer upon the contestant, and all allegations set forth in the notice and not denied in the answer shall be taken as admitted. Such answer shall be served as a pleading in a civil action, and when the contestant appears by attorney the service thereof may be made upon the attorney.

§ 3, c. 54, 1885, am'd.

§ 565. **Contest may be brought by whom.** Such contest may be brought by a person claiming such office on his own motion, in his own name as plaintiff, but such contest cannot be brought by any other person unless the notice of contest is indorsed with the approval of the state's attorney of the county, or in case of his absence or refusal to approve it, with the approval of the judge of the district court.

§ 4, c. 54, 1885.

§ 566. **Trial of contest.** The judge of the district court, in case no term of such court occurs in such county within twenty days after the service of the answer in such contest, may appoint a term of such court therein; but if a term of court occurs in such county before that time, then the contest shall be tried at such term, unless otherwise ordered by the court. The district court or the judge thereof may, upon ten days' notice by either party, try such contest at chambers at any place fixed by the court; or he may on such application or on his own motion, if the pleadings involve a question of fact, order such issues to be tried before a jury, or refer the same as provided in this chapter, and postpone the trial thereof until it can be had in such county, regard being had to the speediest possible trial. If the issues are ordered to be tried by a jury the question to be tried must be distinctly stated in the order of trial, and the place of such trial must be designated in such order.

§ 5, c. 54, 1885, am'd.

§ 567. **Testimony and procedure in contests.** All testimony and depositions taken in contests brought under the provisions of this article shall be taken in the same manner as in civil actions, and depositions may be taken in more than one place at the same time on leave of the court, and all matters relating to such contests shall be heard and tried as nearly as may be as civil actions are tried, except as otherwise provided in this article; and the costs shall be taxed in the same manner as in civil actions, and the court shall have power to order amendments to the notice and answer and to all other proceedings, as provided in the code of civil procedure, and he shall have power to make all orders and enter final judgment in such contests the same as in civil actions.

§ 6, c. 54, 1885, am'd.

§ 568. **Contests of elections for removal of county seat, etc.** In any county where there is a vote for the election or for the removing or changing of the county seat of such county, or changing the county lines thereof, any elector of such county on leave of the district court may contest the validity of such election as to the right of the place declared and selected as the county seat, or as to any

county line declared to be established or changed by a vote; such elector shall give notice in writing of such contest to the county commissioners, or a majority of them, of the county in which such vote was taken, by serving a notice as provided in section 563, within thirty days after the result of such vote is canvassed. Such notice shall specify the grounds of such contest, and shall be filed with the clerk of the district court within ten days after the service thereof upon the county commissioners as aforesaid, and such contest shall be tried and determined by the district court or by a jury as provided for in this article for the contest of county officers. The county commissioners of such county shall appear and defend such contests, but in case they fail to appear and defend the same, any elector of such county may at any time before such trial on leave of the court appear and defend the same, and all testimony and depositions shall be taken in the same manner as in civil actions.

**§ 569. Contests may be tried by referee.** All contests brought under the provisions of this article may be referred by the court or a judge thereof to a referee as provided in the code of civil procedure, and when the parties to such contest do not consent to a reference the court or a judge thereof may in his discretion order such reference. § 7. c. 54, 1885.

**§ 570. Surety for costs must be furnished.** Any person bringing a contest under the provisions of this article must before bringing the same furnish good and sufficient surety for costs as provided in the code of civil procedure, and the obligation of such surety shall be complete by simply indorsing the notice of contest as surety for costs. § 8. c. 54, 1885.

**§ 571. Appeals in contest cases.** Appeals from final judgments or decisions in such contests may be taken without making a motion for a new trial in the district court in the manner provided for in the code of civil procedure, except that the undertaking on appeal shall be in a sum to be fixed by the judge, not less than five hundred dollars, and shall be approved by the judge or by the clerk of the district court of the proper county or subdivision under the direction of the judge. § 9. c. 54, 1885. am'd.

**§ 572. Appeals to the supreme court.** Appeals to the supreme court under the provisions of this article must be taken within sixty days after notice of the entry of final judgment, and the party appealing must immediately procure the transmission of the record on such appeal to the clerk of the supreme court, and such appeal may be brought on for hearing before the supreme court at any time such court shall be in session upon ten days' notice from either party; and the same shall be heard and determined in a summary manner. Such notice of hearing may be served during the term or in vacation. § 10. c. 54, 1885.

**§ 573. Construction of this article.** This article shall not be construed to affect any of the remedies or rights of action or proceedings provided for in the code of civil procedure. § 11. c. 54, 1885.

**§ 574. Provisions of code of civil procedure applicable, when.** Except as otherwise provided in this article, the provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article. § 12. c. 54, 1885.

**§ 575. Provisions of code of civil procedure applicable as to appeals.** The provisions of the code of civil procedure relative § 13. c. 54, 1885. am'd.

to appeals in civil actions, except in so far as they are inconsistent herewith, apply to the proceedings mentioned in this article.

ARTICLE 13. — CONTEST OF ELECTION OF PRESIDENTIAL ELECTORS.

§ 2. S. B. No. 2,  
Sp. 1892,  
am'd.

**§ 576. Court for trial. Contests of presidential electors.**

The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who shall be president of the board, and two judges of the district court, to be designated by the governor. If the chief justice shall for any cause be unable to attend at such trial, the next senior judge on the supreme bench shall preside in place of the chief justice. The secretary of state shall be the clerk of the board, or in his absence or inability to act the clerk of the supreme court shall be the clerk. Each member of the court before entering upon the discharge of his duties shall take an oath before the secretary of state or some officer qualified to administer oaths, that without fear, favor, affection or hope of reward he will, to the best of his knowledge and ability, administer justice according to law and the facts in the case.

§ 3. S. B. No. 2,  
Sp. 1892,  
am'd.

**§ 577. Contestant may apply to court.** Any person, who by the proclamation of the governor as hereinbefore provided, appears to have received not less than one-fifth of the votes cast at an election for electors of president and vice president of the United States may apply to the board provided for in the preceding section for a declaration of his election as elector.

§ 4. S. B. No. 2,  
Sp. 1892,  
am'd.

**§ 578. Application to state grounds of contest.** Such application shall be made by petition in writing to be filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 546, who shall forthwith convene the board. The petition shall set forth the names of the persons whose election is contested, and the grounds for such contest. The petitioner shall before any proceedings are had upon the petition, except the convening of the board, file a bond to the state in such sum and with such surety as the court shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in case he shall not prevail.

§ 5. S. B. No. 2,  
Sp. 1892,  
am'd.

**§ 579. Notice to party contested, how given.** Upon the filing of such petition and the giving of such bond the board shall order notice of the petition to be given, in such manner as it may direct, to the governor and to the person whose election is contested, which notice shall be published in such newspaper as the board shall order. Such notice shall contain a concise statement of the facts alleged in the petition and shall designate the time and place fixed by the board for the hearing of the same, which time shall not be less than three nor more than fifteen days from the filing of the petition.

§ 6. S. B. No. 2,  
Sp. 1892,  
am'd.

**§ 580. Appearance by parties to contest.** At the time fixed for the hearing the petitioner shall appear and produce his evidence and the person whose election is contested may appear and produce evidence in his behalf. Either party may appear in person or by attorney, and no other person shall be entitled to be made a party to such proceedings or to be heard personally or by counsel therein; provided, that if more than one petition is pending, or more than one election is contested the board may order the contests to be heard together in its discretion.



§ 581. **Hearing, how conducted.** The board shall thereupon hear the contest and decide all questions of law and fact involved. The burden of proof in each case shall be upon the petitioner and the hearing shall be confined to the grounds stated in the petition, but the board may in its discretion allow the petition to be amended. No ex parte affidavit shall be competent evidence at such hearing. No person shall be excused from testifying or from producing papers or documents at such hearing on the ground that such testimony will tend to criminate himself; but no person so testifying shall be liable to any suit or prosecution, civil or criminal, for any matters or causes in respect to which he shall be so examined or to which his testimony shall so relate. The board shall have the same power to compel the attendance of witnesses as the district courts of this state possess, and nothing in this article contained shall be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this article, and the board shall have all powers necessary to the complete carrying out and performance of the authority conferred upon it by this article.

§ 7. S. B. No. 2,  
Sp. 1892,  
am'd.

§ 582. **Determination of board, how certified.** The board shall determine in each case which of the parties to the proceedings is entitled to the office of elector, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify the same to the governor and secretary of state, and such determination so certified shall be final and conclusive that the person therein stated to have been elected is duly elected, and the governor shall forthwith transmit to such person a certificate of his election, and every such certificate shall recite that it is issued pursuant to a determination under this article, referring to this article. The court shall so arrange and conduct the trial of such contest that a final determination thereof shall be rendered at least six days prior to the second Monday in January next following.

§ 8. S. B. No. 2,  
Sp. 1892,  
am'd.

§ 583. **Failure of petitioner to appear, effect of.** If any petitioner shall fail to appear and prosecute his petition against any person who has been made a respondent thereto, according to the requirements of this article and of such rules as the board shall make, the board shall determine that he has so failed, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify such determination to the governor and secretary of state; and the same shall be a final and conclusive bar to the claim of the petitioner against such respondent as fully and completely as if such claim had been heard and determined on its merits, and the governor shall issue such certificate as provided in the preceding section.

§ 9. S. B. No. 2,  
Sp. 1892,  
am'd.

§ 584. **Costs. Taxation of.** The costs of all proceedings under this article shall be taxed under the direction of the board, and if two or more cases are heard together the costs shall be apportioned as the board shall direct, and in each case in which the petitioner shall not finally prevail the costs shall be paid by him, and in each case in which the petitioner shall finally prevail the costs shall be borne by the state, in which case the board shall certify the costs to the state auditor, who shall issue his warrant upon the state treasurer in payment of the same.

§ 10. S. B. No. 2,  
Sp. 1892,  
am'd.

§ 585. **Final hearing, how determined.** The final hearing and determination under this article shall be by a majority of the

§ 11. S. B. No. 2,  
Sp. 1892.

board, but any single member may exercise any other of the powers given to the board by this article.

§ 13, S. B. No. 2,  
Sp. 1892.

**§ 586. Mileage and per diem of members of board.** The members shall be entitled to receive for their travel and attendance the sum of six dollars per day and ten cents per mile for each mile necessarily traveled, to be paid from the state treasury upon the warrant of the state auditor.

ARTICLE 14. — CONTEST OF LEGISLATIVE ELECTIONS.

§ 1, c. 47, Pol. C.  
am'd.

**§ 587. Notice of contest in legislative elections.** When any person intends to contest the election of a member of the legislative assembly, he may, within ten days after the result of such election shall have been determined by the board of canvassers, give notice in writing to the member whose seat he desires to contest of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest.

§ 2, c. 47, Pol. C.  
am'd.

**§ 588. Answer to notice.** Any member elect, upon whom the notice mentioned in the preceding section may be served, shall within ten days after the service thereof answer such notice admitting or denying the facts alleged therein and stating specifically any other grounds upon which he rests the validity of his election and shall serve a copy of his answer upon the contestant or his attorney. All allegations contained in the notice and not denied in the answer shall be taken as admitted.

§ 4, c. 47, Pol. C.  
am'd.

**§ 589. Testimony taken, when.** In all such contests the contestant may begin taking testimony as soon as the notice of contest is served and the person whose election is contested may commence taking testimony as soon as his answer is served, and both parties may continue to take testimony for ten days after the time for serving the answer has expired, after which time the contestant may take testimony in rebuttal only for five days.

§ 5, c. 47, Pol. C.  
am'd.

**§ 590. Notice to take depositions same as in code civil procedure.** Depositions taken under the provisions of this article may be taken in the manner and upon the notice prescribed in the code of civil procedure for taking depositions in civil actions.

§ 6, c. 47, Pol. C.  
am'd.

**§ 591. Testimony taken at only two places at a time.** Testimony taken under the provisions of this chapter shall not be taken at more than two places at the same time by either party, except by order of the court or the judge thereof.

§ 7, S. c. 47,  
Pol. C.

**§ 592. Subpœna to compel attendance of witnesses.** When either party to such contest desires to take testimony therein, he may apply to any notary public or justice of the peace in the county where the testimony is to be taken for a subpœna to compel the attendance of witnesses, and the officer to whom such application is made shall thereupon issue his subpœna directed to such witnesses as shall be named to him, requiring their attendance before him at such time and place as may be named in the subpœna to give testimony relating to such contest.

§ 9, c. 47, Pol. C.  
am'd.

**§ 593. Depositions taken without notice on stipulation.** It shall be competent for the parties to such contest by consent in writing to take depositions without notice. Such written consent shall be returned with the depositions.

§ 10, c. 47, Pol. C.  
am'd.

**§ 594. Subpœna served, how.** Witnesses may be subpœnaed in the manner provided in the code of civil procedure.

§ 595. **Attendance compelled only in county.** No witness shall be required to attend an examination out of the county in which he resides or is served with a subpoena. § 11, c.47, Pol.C.

§ 596. **Failure to attend and testify. Penalty.** Any person who, having been summoned in the manner above prescribed, refuses or neglects to attend and testify in obedience to such subpoena, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of twenty dollars to be recovered with costs of suit in a civil action in the name and for the use of the party at whose instance the subpoena was issued, and such person is also guilty of a misdemeanor. § 12, c.47, Pol.C. am'd.

§ 597. **Depositions of nonresident witnesses may be taken.** Depositions of witnesses residing outside of the district and beyond the reach of a subpoena may be taken before any officer authorized to take testimony in a civil action. § 13, c.47, Pol.C.

§ 598. **Examination of witnesses.** All witnesses, who attend in obedience to a subpoena or who attend voluntarily at the time and place appointed, of whose examination notice has been given as provided in this article, shall then and there be examined on oath by the officer who issued the subpoena, or in case of his absence, by any other officer authorized to issue such subpoena, or by the officer before whom the depositions are to be taken by written consent, as the case may be, touching all such matters respecting the election being contested as shall be proposed by either of the parties or attorneys. § 14, c.47, Pol.C.

§ 599. **Testimony must be confined to issue.** The testimony to be taken by either party to such contest shall be confined to the issues raised by the notice of contest and answer thereto. § 15, c.47, Pol.C. am'd.

§ 600. **Testimony must be reduced to writing.** The officer shall cause the testimony of the witnesses to be reduced to writing in his presence and in the presence of the parties or their attorneys, if in attendance, and each witness shall sign his name at the end of his testimony. § 16, c.47, Pol.C. am'd.

§ 601. **Production of papers may be required.** The officer before whom any deposition is taken shall have power to require the production of papers, and, on the refusal or neglect of any person to produce and deliver up any papers in his possession pertaining to such election, or to produce certified or sworn copies of the same in case they are official papers, such person shall be liable to all the penalties prescribed in section 596. All papers thus produced and all certified or sworn copies of official papers shall be transmitted by the officer, with the testimony of the witnesses, to the secretary of state for the use of the legislative assembly. § 17, c.47, Pol.C.

§ 602. **Adjournments.** The taking of the testimony may, if so stated in the notice, be adjourned from day to day. § 18, c.47, Pol.C.

§ 603. **Papers to be attached to deposition.** The notice to take depositions with the proof or admission of service thereof and a copy of the subpoena, where any has been served, shall be attached to the deposition when completed together with a copy of the notice of contest and answer, which shall be annexed to the deposition taken and transmitted with them to the secretary of state. § 19, c.47, Pol.C.

§ 604. **Testimony to be forwarded to the secretary of state.** All officers taking testimony to be used in a contested election case shall, when the taking of the same is completed, immediately certify to the same as required by law in other cases, and inclose the same in a sealed envelope and after indorsing on such envelope § 20, c.47, Pol.C. am'd.

the title of the contest forward the same by mail to the secretary of state; and the secretary of state is authorized to open the same at the instance of either party or his attorney.

§ 21, c. 47, Pol.C.  
am'd.

**§ 605. Fees of officers and witnesses.** Each witness attending in obedience to a subpoena as herein provided and all officers employed in taking testimony in such contested election cases or serving any subpoena or notice herein authorized shall be entitled to receive, from the party at whose instance the service or attendance shall have been performed, such fees as are allowed for similar services in civil actions in courts of record in this state.

§ 22, c. 47, Pol.C.

**§ 606. No legislative expense.** No payment shall be made by the legislative assembly out of its contingent fund or otherwise to either party to such contest for expenses incurred in prosecuting or defending the same.

ARTICLE 15. — REGISTRATION OF VOTERS.

§ 1, c. 122, 1881.  
am'd.

**§ 607. Registration of voters. When board shall meet.** The persons authorized by law or appointed pursuant to any village or city ordinance to act as judges of election in any village, city, ward or other election precinct in this state shall, together with the inspector of election for such precinct, constitute a board of registry for their respective precincts, and they shall meet on Tuesday, two weeks preceding any general election, at nine o'clock A. M., and make a list as hereinafter prescribed of all persons qualified to vote at the ensuing election in such election precinct, which list when completed shall constitute and be known as the register of electors of such precinct.

§ 2, c. 122, 1881.  
am'd.

**§ 608. Registers, what to contain.** Such registers shall each contain a list of the qualified electors of such precinct, alphabetically arranged according to their respective surnames, so as to show in one column the name at full length, and in another column the residence by the number of the dwelling, if there is a number, and the name of the street or other location of the dwelling place of each elector. It shall be the duty of such board to enter in such lists the names of all persons residing in its election precinct whose names appear on the poll list made in such precinct at the last preceding election, the number of the dwelling and name of the street or other location, if the same is known to or can be ascertained by such board, and for this purpose the board is authorized to take from the office in which it is filed the poll list made and filed by the judges or inspector of such precincts at the election held next prior to the making of such register. In making such register the board shall enter therein, in addition to the names on the poll list, the names of all other persons who are known to them to be qualified electors in such precinct, or shall be proved to be qualified electors by the oath of the person applying to be registered, or by the oath of some elector whose name has been already placed upon the poll list; and the names of all persons on the poll list who have died or removed from the precinct shall be omitted from the register. Such board shall complete as far as practicable such register on the day of their meeting aforesaid, and shall make two copies thereof and certify the register and each of the copies to be a true list of the voters in its precinct so far as the same are known, within ten days thereafter; such original list, together with the list taken from the office aforesaid, shall be filed with the board and shall be kept by one of the judges or by the inspector and

carefully preserved for its use on the day hereinafter mentioned for the revision and correction of the same. One copy of such list shall immediately after its completion be posted in some public and conspicuous place at or near the place where the last preceding election in such precinct was held, and be accessible to any elector who may desire to examine the same or make copies thereof. Any person who shall tear down, deface or destroy any list so posted is guilty of a felony and shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the penitentiary not exceeding five years.

**§ 609. Registry list in new precinct.** In case any election precinct shall be formed by the organization of a new precinct or by division of any village, ward or precinct, or the incorporation of a city or village, the judges or the inspector of elections in the new precinct thus formed, may make a registry of electors on the day prescribed by this article in such manner as a majority of them may direct, and for this purpose they may make a list or cause to be made a certified copy of the poll list or lists of the precinct or precincts in which such new precinct was situated, or they may dispense with such list and proceed to make a register of electors from the best means at their command. Such list shall only embrace the names of such persons as are known to them to be electors in their precinct or proved to be such by the oath of an elector whose name has already been entered upon such register, or by the oath of the applicant; and such list shall be preserved and a copy posted up as prescribed in the preceding section and shall be revised and corrected in the same manner as other lists are corrected. § 3, c. 122, 1881.  
am'd.

**§ 610. Board of registration, second meeting.** Such boards shall again meet on Tuesday of the week preceding such election in their respective election precincts at the place designated for holding the polls for the purpose of revising, correcting and completing such lists, and for this purpose they shall meet at 8 o'clock A. M. and remain in session until eight o'clock P. M. § 4, c. 122, 1881.

**§ 611. Proceedings of board to be public.** The proceedings of such board shall be open, and all persons residing and entitled to vote in such precincts shall be entitled to be heard by such board in relation to corrections or additions to such register, and the judges or the inspector are empowered to administer oaths for this purpose. One of the lists so kept by the judges or inspector as aforesaid shall be used by them on the day of making corrections or additions for the purpose of completing the registry of such precinct. § 6, c. 122, 1881.

**§ 612. Registry list to be revised.** It shall be the duty of such board at its meeting for revising and correcting such lists to erase therefrom the name of any person inserted therein who shall be proved by the oath of two legal voters of such precinct to the satisfaction of such board to be nonresidents of such precinct or otherwise not entitled to vote therein at the election then next to be held. Any elector residing in such precinct and entitled to vote therein may appear before such board and require his name to be recorded in such list. Any person requiring his name to be recorded shall make the same statement as to street and number thereof and where he resides which is required by the provisions of this article of persons offering their votes at the polls, and shall be subject to the same penalties for refusing to give such information or for falsely giving the same, and shall also be subject to challenge either by the judges § 7, c. 122, 1881.

or the inspector or by any elector whose name appears on such list, and the same oath may be administered by the judges or inspector or other duly authorized person as is provided in case of persons offering to vote at an election; and in case no challenge is made to any person requiring his name to be registered or in case of challenge, if such person makes oath as aforesaid, then the name of any such person shall be added to such list.

§ 8, c. 122, 1881.

**§ 613. Receiving vote from person not on registry list.**

After such lists shall have been fully completed, such board shall within two days cause two copies of the same to be made, each of which shall be certified by it to be a correct list of the qualified electors of the precinct so far as known, which list the judges or inspector shall carefully keep and preserve for use on election day; and at the opening of the polls the judges or inspector shall designate two of their number to check the name of each voter voting in such precinct whose name is on the register. No vote shall be received at any election in this state if the name of the person offering such vote is not on the register, unless such person shall furnish to the judges of election his affidavit, stating therein that he is a resident of such precinct, giving his place of residence and length of time he has resided there, and also prove by the oath of a householder and registered voter of the precinct that he knows such person to be a resident therein, giving his place of residence. Such oath may be administered by the inspector or one of the judges of election, or any other person authorized to administer oaths, but no person shall receive any compensation for administering such oath. Such oath shall be preserved and filed by the judges of election. Any person may be challenged and the same oath required as is now or hereafter may be prescribed by law.

§ 9, c. 122, 1881.  
am'd.

**§ 614. Duty of clerks of election.** The clerks of election in each precinct shall enter on the poll list kept by them in columns prepared for that purpose, opposite the name of each person voting, the same statement or minute heretofore required of the board in making the registry; but such entry shall not be made by them if the register correctly contains the name and residence of such voter; and in all cases such clerk shall enter in a column opposite the name of each person not registered the words "not registered." And the clerks in case the name of such voter is not registered shall enter in the appropriate columns of the poll list the name and residence as in other cases. Any person making a false statement as to his residence or dwelling place shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or imprisonment in the penitentiary not exceeding two years, at the discretion of the court.

§ 10, c. 122, 1881.

**§ 615. Register must be filed.** Within three days after the canvass of the votes the register so kept and checked as aforesaid shall be filed with the county auditor of the county in which such precinct is situated, and shall be retained and carefully preserved therein as a public record.

§ 11, c. 122, 1881.  
am'd.

**§ 616. Registers to remain public record.** Such registers shall at all times be open to public inspection without charge.

§ 12, c. 122, 1881.

**§ 617. Compensation of members of board of registry.** The members of the board of registry shall receive the same compensation as is now or may hereafter be allowed by law, not to exceed two dollars per day.

§ 618. **Board has power to preserve order.** The members of such board shall have and exercise the same powers in preserving order at their meetings under this article as are given to judges of election for preserving order on election day, and vacancies may be filled in such board in the same manner as vacancies of judges are now filled at elections. § 13, c. 122, 1881.

§ 619. **Penalty for registering in more than one precinct.** Any person who shall cause his name to be registered in more than one election precinct, or who shall cause his name to be registered knowing that he is not a qualified voter in the precinct where such registry is made, or who shall falsely personate any registered voter, and any person aiding or abetting any person in any manner in either of such acts, shall be punished for each and every offense by imprisonment in the penitentiary for not less than two nor more than five years. If any member or officer of such board shall willfully violate any of the provisions of this article, or be guilty of any fraud in the execution of the duties of his office, he shall be punished by imprisonment in the penitentiary for a period not exceeding two years. § 14, c. 122, 1881.

§ 620. **County auditor to provide blank registers and blanks.** The county auditors shall provide the board of registry of the several precincts within their respective counties with the necessary blank registers and blanks at the expense of their respective counties. § 1, c. 48, 1887.

§ 621. **What cities governed by this article.** All cities and villages containing one thousand or more inhabitants shall be subject to the provisions of this article. To determine the number of inhabitants the number of votes cast at the last preceding general election shall be multiplied by five. § 1, c. 48, 1887, amend.

## CHAPTER 9.

### EDUCATION.

#### ARTICLE 1. — SUPERINTENDENT OF PUBLIC INSTRUCTION.

§ 622. **Qualifications of. Term of office.** There shall be elected by the qualified electors of the state at the time of choosing members of the legislative assembly a superintendent of public instruction, who shall have attained the age of twenty-five years, and who shall have the qualifications of an elector for that office and the holder of a state certificate of the highest grade, issued in some state, or a graduate of some reputable university, college or normal school. He shall hold his office at the seat of government for the term of two years commencing on the first Monday in January following his election and until his successor is elected and qualified. § 1, c. 62, 1890.

§ 623. **To preserve miscellaneous documents.** He shall preserve in his office all books, maps, charts, works on education, school reports and school laws of other states, and cities, plans for school buildings and other articles of educational interest and value which may come into his possession as such officer, and at the expiration of his term he shall deliver them together with the reports, statements, records and archives of his office to his successor. § 2, c. 62, 1890.

- § 3. c. 62, 1890.  
1. c. 56, 1891.     **§ 624. Supervision of schools.** He shall have the general supervision of the public schools of the state and shall be ex officio member of the board of university and school lands and of the normal school boards of the state.
- § 4. c. 62, 1890.  
2. c. 56, 1891.     **§ 625. Prepare and furnish school supplies.** He shall prepare, cause to be printed and furnished to the proper officer or persons all school registers, reports, statements, notices and returns needed or required to be used in the schools or by the school officers in the state. He shall prepare and furnish the school offices, through the county superintendents, lists of publications approved by him as suitable for district libraries; such lists shall also contain the lowest price at which each publication can be purchased, and such other information relative to the purchase of district libraries as he may deem requisite.
- § 5. c. 62, 1890.     **§ 626. Examinations and teachers certificates.** He shall prepare or cause to be prepared all questions to be used in the examination of applicants for teacher's certificates, prescribe the rules and regulations for conducting such examinations and issue or revoke state certificates as provided in this chapter.
- § 6. c. 62, 1890.     **§ 627. Prescribe course of study.** He shall prepare and prescribe a course of study for all the public and normal schools of the state and the course of study, training and practice of the professional department of schools, designated and supported wholly or in part by the state.
- § 7. c. 62, 1890.  
§ 3. c. 56, 1891.     **§ 628. Rules for teachers' institutes.** He shall prescribe rules and regulations for the holding of teachers' institutes, and, after counseling and advising with county superintendents, shall appoint conductors therefor. He shall prescribe the course of instruction for teachers' institutes, and the course of reading for the teachers' reading circles within the state.
- § 8. c. 62, 1890.  
§ 4. c. 56, 1891.     **§ 629. Advise county superintendents.** He shall counsel with and advise county superintendents upon all matters involving the welfare of schools and he shall, when requested, give them written answers to all questions concerning the school law. He shall decide all appeals from the decision of the county superintendents, and may for such decisions require affidavits, verified statements or sworn testimony as to the facts in issue. He shall prescribe and cause to be enforced rules of practice and regulations pertaining to the hearing and determination of appeals, and necessary for carrying into effect the school laws of the state.
- § 9. c. 62, 1890.     **§ 630. Record of official acts.** He shall keep a complete record of all his official acts and shall file in his office all appeals and the papers pertaining thereto.
- § 10. c. 62, 1890.    **§ 631. School laws to be printed.** He shall at least once in two years cause to be printed the school laws of the state, with such notes and decisions thereon as may seem to him advisable, and shall furnish them as they are needed to the school officers in the state.
- § 1. c. 62, 1890.  
am'd.               **§ 632. Conference with county superintendents.** He shall meet the county superintendents of each judicial district or of two or more districts combined at such time and place as he shall appoint, giving them due notice of such meeting. The objects of such meeting shall be to accumulate valuable facts relative to schools, to compare views, to discuss principles, to hear discussions and suggestions relative to the examinations and qualifications of teachers



methods of instruction, text books, institutes, visitation of schools and other matters relating to the public schools.

§ 633. **Seal.** He shall provide and keep a seal by which all his official acts may be authenticated. § 12, c. 62, 1890. am'd.

§ 634. **To assist at teachers' institutes.** He shall, when practicable, attend and assist at teachers' institutes and aid and encourage generally teachers in qualifying themselves for the successful discharge of their duties; he shall labor faithfully in all practicable ways for the welfare of the public schools of the state, and shall perform such other duties as shall be required of him by law. § 13, c. 62, 1890.

§ 635. **Biennial report, what to contain.** He shall, on or before the first day of November preceding the biennial session of the legislative assembly, make and transmit to the governor a report, showing: § 14, c. 62, 1890. am'd.

1. The number of school districts, schools, teachers employed and pupils taught therein and the attendance of pupils and studies pursued by them.

2. The financial condition of the schools, their receipts and expenditures, value of school houses and property, cost of tuition and wages of teachers.

3. The condition, educational and financial, of the normal and higher institutions connected with the school system of the state and as far as it can be ascertained, of the private schools, academies and colleges in the state.

4. Such general matters, information and recommendations relating to the educational interests of the state, as he may deem important.

§ 636. **Reports to be printed.** One thousand copies of the report of the superintendent of public instruction shall be printed biennially in the month of December preceding the session of the legislative assembly. One copy shall be furnished to each of the members of the legislative assembly, one copy to each county superintendent of the state, one copy to the president of each school board, one copy to each state officer, one copy to each state and territorial superintendent and twenty copies shall be filed in the office of the superintendent of public instruction and ten copies in the state library. The remaining copies shall be distributed among the various colleges, university and other libraries of the United States. § 15, c. 62, 1890. am'd.

§ 637. **Salary, traveling expenses.** He shall receive an annual salary of two thousand dollars and in addition thereto his actual and necessary traveling expenses incurred in the discharge of his official duties, not exceeding six hundred dollars in any one year, such expenses to be paid monthly on the warrant of the state auditor upon his filing with such auditor an itemized statement of such expenses properly verified. § 16, c. 62, 1890. am'd.

#### ARTICLE 2.— COUNTY SUPERINTENDENT OF SCHOOLS.

§ 638. **Election. Term of office.** There shall be elected in each organized county at the same time other county officers are elected a county superintendent of schools, whose term of office shall be two years commencing on the first Monday in January following his election and until his successor is elected and qualified. § 17, c. 62, 1890. am'd.

§ 20, c. 62, 1890. **§ 639. General duties.** The county superintendent of schools shall have the general superintendence of the public schools in his county, except those in cities which are organized under special law and those in special or independent school districts.

§ 21, c. 62, 1890. **§ 640. Visitation of schools.** He shall visit each public school under his supervision. He shall at such visit carefully observe the condition of the school, the mental and moral instruction given, the methods of teaching employed by the teacher, the teacher's ability and the progress of the pupils. He shall advise and direct the teacher in regard to the instruction, classification, government and discipline of the school and the course of study. He shall keep a record of such visits and by memoranda indicate his judgment of the teacher's ability to teach and govern and the condition and progress of the school, which shall be open to inspection by any school director.

§ 22, c. 62, 1890.  
§ 5, c. 56, 1891. **§ 641. General duties continued.** He shall carry into effect all instructions of the superintendent of public instruction given within his authority. He shall distribute to the proper officers and to teachers all blanks furnished him by such superintendent, and needed by such officers and teachers. Acting under the instructions of the superintendent of public instruction, he shall convene the teachers of his county at least one Saturday in each month during which the public schools are in progress, or if the distance is too great, he may convene the teachers of two or more districts in each of the several portions of his county in county or district institutes, or teachers' circles for normal instruction and the study of methods of teaching, organizing, classifying and governing schools, and for such other instruction as may be set forth in the course of reading prescribed by the superintendent of public instruction for the state teachers' reading circle. Each teacher shall attend the full session of such institute or circle and participate in the duties and exercises thereof or forfeit one day's wages for each day's absence therefrom, unless such absence is occasioned by sickness of the teacher or others to whom his attention is due; but when on account of distance or otherwise it would impose a hardship upon any teacher to attend, or would cause such teacher to neglect his school, the county superintendent may excuse such teacher from attendance.

§ 23, c. 62, 1890. **§ 642. Record of official acts.** He shall keep a record of all his official acts and shall preserve all books, maps, charts and apparatus sent him as a school officer, or belonging to his office. He shall file all reports and statements from teachers and school boards and shall turn them over to his successor in office.

§ 24, c. 62, 1890.  
§ 6, c. 56, 1891. **§ 643. Meetings with school officers.** He may arrange for meetings with school officers at designated times and places, due notice of which has been given, for the purpose of inspecting the district records and instructing in the manner of keeping the same and of preparing the reports of district officers. He shall visit the officers of the several school districts as often as may be necessary to secure the correct keeping of the records. He shall, on or before the first day of April in each year, prepare and furnish to the several assessors of the county a correct sectional map of their respective districts, showing the boundaries and names or numbers of all school districts therein.

§ 25, c. 62, 1890. **§ 644. To decide questions in controversy.** He shall decide all matters in controversy arising in his county in the administration of the school law or appealed to him from the decisions of

school officers or boards. An appeal may be taken from his decision to the superintendent of public instruction, in which case a full written statement of the facts, together with the testimony and his decision in the case shall be certified to the superintendent of public instruction for his decision in the matter, which decision shall be final, subject to adjudication or the proper legal remedies in the courts.

§ 645. **Power to administer oaths.** He shall have power to administer oaths of office to all subordinate school officers, and to witnesses and to examine them under oath in all controversies pending before him arising in the administration of the school laws; but he shall not receive pay for administering such oaths. § 26, c. 62, 1890. am'd.

§ 646. **Institute fund, how raised and used.** All fees received by him for the examination of teachers shall be turned over to the county treasurer, who shall keep the same as a special fund to be known as the "institute fund" and which shall be used only for the expenses of holding county teachers' institutes, to be paid out upon proper warrants issued by the county auditor upon the sworn and itemized voucher of the county superintendent. § 27, c. 62, 1890.

§ 647. **Apportionment of state tuition fund.** He shall make apportionment of the state tuition fund among the school corporations of the county, as provided in this chapter. § 28, c. 62, 1890.

§ 648. **Teacher's certificate may be revoked, when.** He shall see that the pupils are instructed in the several branches of study required by law to be taught in the schools as far as they are qualified to pursue them. If any teacher neglects or refuses to give instruction as required by law in physiology and hygiene, and the nature and effect of alcoholic drinks, narcotics and stimulants, the county superintendent shall promptly revoke such teacher's certificate and cause him to be discharged. If the teacher, so neglecting or refusing to give instructions in such branches, holds a state certificate, the county superintendent shall immediately certify such refusal or neglect to the superintendent of public instruction. § 29, c. 62, 1890.

§ 649. **Report to state superintendent.** He shall, on or before the fifteenth day of August in each year, make and transmit a report to the superintendent of public instruction, containing such statistics, items and statements relative to the schools of the county, as may be required by such superintendent. Such report shall be made upon and conform to the blanks furnished by the superintendent of public instruction for that purpose. He shall not be paid his salary for the last quarter of his official year, until he presents to the county commissioners, the receipt of the superintendent of public instruction for such annual report. § 30, c. 62, 1890. am'd.

§ 650. **Appraisalment of school lands. Fees.** He shall perform such duties as appraiser of the school lands in his county, and also in the leasing and sale of such lands, as may be required of him by the board of university and school lands. He shall be paid for such services three dollars a day for the time actually employed therein and five cents a mile for the distance actually and necessarily traveled in the discharge of such duties, to be paid by the state treasurer out of the funds appropriated for the current expenses of the board of university and school lands. § 31, c. 62, 1890. am'd.

§ 651. **Office, postage and stationery.** He may provide for himself a suitable office for the transaction of official business when not provided therewith by the county commissioners, and such commissioners shall audit and pay his reasonable accounts for the use and § 32, c. 62, 1890. § 7, c. 56, 1891.

furniture of such office. They shall also furnish him with all necessary books, stationery and postage; but not more than one hundred and twenty-five dollars a year shall be paid by any county for office rent, books, stationery, postage and furniture, and when an office room is furnished by the county he shall not be allowed to exceed fifty dollars a year for stationery and postage.

§ 33, c. 62, 1890.  
1. c. 53, 1893.

**§ 652. Salary. Deputy. Traveling expenses.** The salary of the county superintendent of schools shall be as follows: In each county having one school and not over five, one hundred dollars; six schools and not over ten, two hundred dollars; eleven schools and not over fifteen, three hundred dollars; sixteen schools and not over twenty, four hundred dollars; twenty-one schools and not over twenty-five, five hundred dollars; twenty-six schools and not over thirty, six hundred dollars; thirty-one schools and not over thirty-five, seven hundred dollars; thirty-six schools and not over forty, eight hundred dollars; forty-one schools and not over fifty, nine hundred dollars; and for each additional ten schools or major fraction thereof, one hundred dollars additional; provided, that in computing the salary of such superintendent no school shall be included unless the same shall have been taught at least three months during the preceding year; provided, further, that such salary shall not exceed fifteen hundred dollars in any county. In addition thereto he shall receive seven cents a mile for the distance actually and necessarily traveled by him in the discharge of his duties. He shall at the end of every three months make and furnish to the county commissioners an itemized statement of the distance so traveled in the discharge of his duties, which shall be audited and ordered paid by the board of county commissioners. The amount of his salary shall be determined each year by the actual number of schools or separate departments in graded schools over which such superintendent had official supervision during the preceding year, and the same shall be paid out of the county general fund monthly upon the warrant of the county auditor. In each county which shall be organized for school purposes after the adoption of this code, the county superintendent shall be paid a salary at the rate of one hundred dollars a year until the first Monday in October next following his election, after which his salary shall be as provided for in this section. The county superintendent may appoint a deputy who shall perform the duties of the county superintendent during his absence from the county; but no additional salary shall be paid such deputy, except in counties having eighty or more schools, in which counties the board of county commissioners may appropriate not to exceed one hundred dollars each year for clerical assistance in the office of the county superintendent, but such deputy shall be paid seven cents a mile for the distance actually and necessarily traveled by him, to be paid in the same manner the county superintendent is paid. The county superintendent shall be responsible for the official acts of such deputy.

§ 31, c. 62, 1890.

**§ 653. Qualifications of.** No person shall be deemed qualified for the office of county superintendent, unless he holds a certificate of the highest county grade or its equivalent.

§ 1, c. 46, 1895.

**§ 654. Shall not engage in teaching.** No county superintendent of schools, except as hereinafter provided, shall engage in teaching during the term for which he was elected, nor shall any person under contract to teach be qualified to hold the office of county superintendent of schools.

§ 655. **Shall not absent himself from county.** No county superintendent of schools shall engage in any profession or occupation, nor shall he absent himself from the county or district for which he is elected to engage in any occupation, profession or pursuit during the term for which he is elected for such time and in such manner as to interfere with the proper discharge of his duties as county superintendent of schools. § 2, c. 46, 1895.

§ 656. **Subject to removal.** Any county superintendent of schools who neglects or violates any of the provisions of sections 654 and 655 shall be subject to removal from office. § 3, c. 46, 1895.

§ 657. **Not applicable in every county.** None of the provisions of sections 654 and 655 shall be applicable to counties in which the salary of county superintendents of schools is less than twelve hundred dollars per annum. § 4, c. 46, 1895.

### ARTICLE 3.—SCHOOL DISTRICTS.

§ 658. **What constitutes a school corporation.** Each civil township in the state, not organized for school purposes under the district system at the taking effect of this code, shall be and is hereby constituted a distinct school corporation, and whenever in any county a civil township shall hereafter be organized it shall from and after such organization be and constitute a distinct school corporation, except as otherwise specially provided in this chapter. § 35, c. 62, 1890.

§ 659. **School township to conform to civil township when possible.** Each school township in every county in the state, which at the taking effect of this code consists of territory not organized into a civil township, shall be and remain a distinct school corporation; provided, that whenever such school township, or any part thereof, shall be organized into or annexed to a civil township, such civil township shall thenceforth constitute a distinct school corporation; but nothing in this section shall be construed to alter the boundary lines of any school township organized prior to the passage of this code, except upon petition as hereinafter provided. § 36, c. 62, 1890.

§ 660. **What territory may be organized into district school corporations.** The county commissioners of each county, not organized for school purposes under the district school system at the taking effect of this code, shall organize into a distinct school corporation any territory not, at the taking effect of this code, already organized into a civil township or a school township, upon being petitioned so to do by one-third of the residents of such territory, having the care and custody of any child of school age; provided, such territory shall consist of not less than one congressional township, having at least eight thousand dollars of taxable property and at least ten children of school age residing therein. The county commissioners of every such county, with the advice and consent of the county superintendent, may rearrange the boundaries in any school corporation whose territory is not included within a civil township, when petitioned so to do by a majority of the voters residing within such school corporation, whose boundaries will be affected thereby, subject to the same restrictions and conditions as to extent of territory, value of taxable property and number of resident children of school age as in the organization of a school corporation from territory not included in a civil township. In the formation of school corporations and the rearrangement of their boundaries as provided § 37, c. 62, 1890.  
§ 8, c. 56, 1891.

for in this section, the boundary lines of congressional townships shall be followed as far as possible as school corporation lines.

§ 39, c. 62, 1890. **§ 661. New school districts, how formed.** In any county hereafter organized the county commissioners shall so divide the county or the parts thereof, which include every congressional township in such county which has residing therein not less than ten children of school age, into school corporations as will best promote the permanent interests of public schools in the county, upon the same petition and subject to the same condition and restrictions as are contained in section 660.

§ 39, c. 62, 1890. **§ 662. When school corporations may be divided and attached to other districts.** If a portion of any such school corporation having not more than ten children of school age residing therein is separated from the other portion of such corporation by any natural obstacle which practically prevents such children from attending school in such other portion, the county commissioners of the county may annex such portion so separated to an adjoining school corporation, and the portion so annexed shall constitute a part of such adjacent corporation. If such adjacent corporation lies in another county, the county commissioners of the two counties may jointly make such annexation.

§§ 40, c. 62, 1890.  
§ 9, c. 56, 1891. **§ 663. Annexation of school corporations.** In any county not organized for school purposes under the district system at the taking effect of this code, if a town or village not organized into a special district is divided by a civil township line or if such town or village is divided by any county line, the county commissioners of such county, or the county commissioners of such adjacent counties acting in joint session, as the case may be, may when petitioned so to do by a majority of the voters of each part of said town or village, annex one part of such town or village to the adjacent school corporation which includes the other part of such town or village and the part so annexed shall constitute a portion of such adjacent corporation.

§ 42, c. 62, 1890. **§ 664. When civil townships may consolidate into school district.** In any county not organized for school purposes under the district system at the taking effect of this code, if a civil township having less than fifteen persons of school age residing therein, by reason of the irregular course of natural boundary, contains less than twelve sections or square miles of territory, it shall constitute a portion of the adjacent school district with which it has the longest common boundary line.

§ 43, c. 62, 1890. **§ 665. School districts, how named.** Each school corporation constituted or formed under the provisions of this article, shall be designated a school district as distinguished from a civil township or congressional township and shall be named as follows: Each school district which consists of a civil township shall be named " . . . . . school district of . . . . . county, state of North Dakota," with the name of the civil township which constitutes the districts inserted in the blank before the word "school" and the name of the county in which it is situated inserted before the word "county." Each school district which consists of territory not organized into a civil township but which has been named by a distinctive name shall have such distinctive name inserted in the blank before the word "school." Each school district consisting of territory not organized into a civil township which has no distinctive name shall be named "school district No. . . . . of . . . . . county, state of North

Dakota," with its proper number inserted in the blank after the word "number" and the proper name of the county inserted in the blank before the word "county;" provided, that in each county organized for school purposes under the district system at the taking effect of this code, the several school districts shall retain and be known by the number which they have respectively at the time of the taking effect of this code and any school district hereafter formed in any such county shall be known by the number next higher than that of the highest pre-existing numbered district.

**§ 666. When boundaries to be rearranged and established and how.** The county commissioners and county superintendent of schools in each county, which at the taking effect of this code, is organized for school purposes under the district system, shall meet on the first Monday in May, A. D. 1896, at the place where the meetings of such commissioners are usually held and shall rearrange and establish the boundaries of the several school districts of the county unless the same has already been done, as follows:

1. Each civil township in a county, no part of which is included in a school district already organized, shall be formed into a single school district.

2. Each congressional township in the county, no part of which is included in a civil township nor in an organized school district, if it contains twelve or more persons of school age, shall be formed into a single school district.

3. All territory in a county situated in a civil township, part of which is organized into a school district or situated in a congressional township not included in a civil township, and a portion of which is organized into a school district shall be annexed to and form a part of the organized school district lying wholly or in part in such civil or congressional township.

4. Each school district now organized which has less than ten persons of school age residing therein shall be annexed to and form a part of such adjacent school district as shall be most convenient for such persons of school age, when in the judgment of such commissioners and superintendent such annexation can be made without detriment to the school or to the pupils residing in such district.

5. The boundary lines of each school district which lies partly within two or more civil townships shall be so changed that such school district shall lie wholly within one civil township, so far as in the judgment of such commissioners and superintendent such change can be made without detriment to the schools or to the pupils therein.

6. Such commissioners and superintendent shall make such changes generally in the boundary lines of the school districts of the county, not in their judgment detrimental to the interests of the schools of the county, as will reduce the number of school districts in the county, and form school districts not extending beyond the boundaries of the civil township.

**§ 667. Boundaries, how changed in future.** After the boundary lines of the several school districts in any of the counties are rearranged and established as provided for in the last section, or at any time thereafter, such boundary so established, or any boundary rearranged and established as aforesaid, may be changed by the county commissioners and superintendent of schools of such county at a regular meeting of the board, upon petition of three-fourths of the resident voters in and of the parts of districts to be included in any new

§ 44, c. 62, 1890.  
§ 45, c. 82, 1890.  
§ 1, c. 59, 1893.

districts, or of the parts of districts desiring such change; provided, that there are at least twelve children of school age within the boundaries proposed to be benefited by such change or creation of a new district, and it shall appear to the satisfaction of a majority of such board and to the county superintendent that such change will be beneficial to the schools and to the public; and provided further, that each congressional township not wholly or in part included in a civil township, and no portion of which is organized for school purposes, shall be formed into a school district as soon as it shall have residing therein twelve or more children of school age.

§ 46, c. 62, 1890.

**§ 668. Rights and powers of school corporations.** Each school district constituted and formed as provided in this article shall be a distinct corporation, and under its proper name or number as such corporation, may sue and be sued, contract and be contracted with, and may acquire, purchase, hold and use personal or real property for school purposes or for the purposes mentioned in this chapter and sell and dispose of the same.

§ 47, c. 62, 1890.

**§ 669. Plats of school districts to be furnished by county auditor.** The county auditor shall, within thirty days after the first school election held as provided herein, transmit to the state auditor, to the superintendent of public instruction and to the county superintendent, a plat of the county showing the boundaries and name of each school corporation therein, and shall record a copy of the same together with all proceedings of the county board had and done under this chapter in a proper book kept for that purpose. He shall promptly furnish such officers with a correct plat showing any changes at any time in the boundaries of school corporations. The superintendent of public instruction shall furnish instructions for the suitable preparation and construction of such plats in regard to scale and markings, in order to secure a uniform series of maps for binding for office use.

#### ARTICLE 4. — ELECTION OF SCHOOL OFFICERS.

§ 48, c. 62, 1890.  
am'd.

**§ 670. Officers to be elected.** On the third Tuesday in June of each year there shall be elected one school director for the term of three years and on the third Tuesday in June of each even numbered year a school treasurer for the term of two years. Such officers shall hold their respective offices from the second Tuesday in July following their election for the number of years respectively for which they were elected, and until their successors are elected and qualified. At the first election for the organization of a new school district there shall be elected at large for such school districts three directors, one to serve until the first annual election, one to serve until the second annual election, and one to serve until the third annual election thereafter and a school treasurer to serve until the annual election in the next even numbered year and until his successor is elected and qualified.

§ 49, c. 62, 1890.  
am'd.

**§ 671. Polling places, how established. Appointment of election officers.** The county superintendent in each county shall at least twenty days prior to the third Tuesday in June of each year, fix and designate some polling place in each school district so located as to be convenient for the voters of such district, and shall appoint two persons to act as judges and two to act as clerks of the election of such school officers; such judges and clerks shall be qualified voters in their respective districts. The county superinten-



dent shall notify in writing such judges and clerks of their appointment, and of the place fixed and designated as the polling place in their respective districts, and shall furnish them with the necessary blanks and poll books for such election. He shall also furnish one of such clerks with three notices of such election specifying the time and place at which such election is to be held, the officers to be elected and term of each, which notices such clerk shall post in three of the most public places in the district at least ten days prior to the thirteenth day of June. The county superintendent shall fix the date and perform such other duties as devolve upon him by the provisions of this section for the first election in any school district hereafter formed under the provisions of this chapter, and such election shall be called by the county superintendent within thirty days after the formation of such school district.

§ 672. **Who qualified to vote or hold office.** At any election of school officers in any school corporation in this state, all persons who are qualified electors under the general laws of the state and all women twenty-one years of age having the necessary qualifications as to citizenship and residence required of male voters by law, shall be qualified voters and shall be eligible to the office of county superintendent of schools, school director or member of the board of education or school treasurer, or may be judge or clerk of such election. § 50, c. 62, 1890.

§ 673. **Hours polls open.** At all elections for school district officers, the polls shall be open at 2 o'clock P. M. and closed at five o'clock P. M. § 52, c. 62, 1890.

§ 674. **Notice of annual election.** At least fifteen days before the third Tuesday in June of each year the district school board of each school district shall designate one polling place as convenient as possible to the voters of such district at which such annual election shall be held, and shall cause notice of such election to be posted in at least three of the most public and conspicuous places within the district. Such notices shall be signed by the clerk or in his absence by the president of the district school board, and shall state the time and place of holding such election and the officers to be elected and their term of office, and shall be substantially in the following form: § 53, c. 62, 1890. am'd.

Notice is hereby given that on Tuesday the ..... day of June, A. D. .... an election will be held at ..... (here insert polling place) for the purpose of electing ..... (here insert officers to be elected and term each is to serve) for school district No. .... or for ..... (here insert name of school district). The polls will be open at two o'clock P. M. and closed at five o'clock P. M. of that day.

By order of school board,  
Signed, .....  
clerk.

§ 675. **Judges. Oath.** At such annual election any two of the directors of the school district may act as judges and the clerk of the district school board and one other person to be chosen by the voters present at the opening of the polls, shall act as clerks. The voters present at the opening of the polls shall choose a person to fill any vacancy caused by the absence of either of such officers to act as judge or clerk of such election. Before opening the polls each of the judges and clerks of election shall take and subscribe the following oath or § 54, c. 62, 1890.

affirmation: "I do solemnly swear (or affirm) that I will perform my duties as judge or clerk (as the case may be) according to law and the best of my ability." Such oath or affirmation may be administered by any officer authorized to administer oaths or by either of the judges or clerks. Any school officer elected and qualified under the provisions of this chapter is authorized and empowered to administer any oath or affirmation pertaining in any manner to school offices.

§ 55, c. 62, 1890.  
 § 10, c. 56, 1891.

**§ 676. Election, how conducted and votes canvassed.**

Such election shall be conducted and the votes canvassed as provided by law for general elections, except as otherwise provided in this chapter. Immediately after the polls are closed the judges shall proceed to count and canvass the votes for each person voted for at such election for any office, and the person receiving the highest number of votes for the office of director or treasurer shall be declared elected. If the election results in a tie for any such office, the district clerk shall immediately notify in writing the parties having received such tie votes, and a time shall be agreed upon by the parties within three days after the election, at which the election shall be decided in the manner that may be agreed upon by the parties, in the presence of the judges and clerks of election, and a record of the proceedings shall be made in the records of the district clerk. The return of the number of votes cast for each person for county superintendent of schools, shall be signed by such judges and clerks of election sealed in an envelope and forwarded to the county auditor within five days after such election.

§ 56, c. 62, 1890.  
 am'd.

**§ 677. Certificates of election.** The clerk of the school district shall within five days after such election furnish each person elected to any district office a written notice of his election, and that he shall take the oath of office as such officer on or before the second Tuesday in July following such election. He shall also forward to the county superintendent within ten days after such election, a certified list of all the officers elected thereat.

§ 57, c. 62, 1890.  
 am'd.

**§ 678. Oath of office.** Each person elected to the office of school director or treasurer shall before entering upon the duties of his office, take and subscribe the oath prescribed in section 211 of the constitution, which oath shall be filed with the clerk of the school district board.

**ARTICLE 5. — ORGANIZATION, MEETINGS AND DUTIES OF DISTRICT OFFICERS.**

§ 59, c. 62, 1890.

**§ 679. District school board. Quorum.** The three school directors in each school district shall constitute the district school board. A majority of the board shall constitute a quorum and the agreement of a majority shall be necessary to the validity of any contract entered into by the board.

§ 60, c. 62, 1890.

**§ 680. Organization. Clerk.** The school board shall meet annually on the second Tuesday in July and organize by choosing one of the members president, and a competent person, not a member of the board, clerk, who shall hold his office during the pleasure of the board.

§ 61, c. 62, 1890.

**§ 681. Meetings of board. Fees.** The board shall on the second Tuesday in January, April, July and October of each year, hold regular meetings for the transaction of business at such hour and place as may be fixed by the board. A special meeting may be held

upon the call of the president or of the other two members. Written notice of the time and place of any special meeting shall be given to each member of the board at least forty-eight hours before the time of such meeting. Each member of the board shall be paid the sum of eight dollars per annum, less two dollars for each regular meeting which he fails to attend.

**§ 682. Duties of the president.** The president shall preside at all meetings of the board and shall perform such duties as usually pertain to such office and in accordance with the customary rules of order. In his absence a president pro tempore shall preside. The president shall perform such other duties as are prescribed in this chapter. § 62, c. 62, 1890.

**§ 683. Duties of clerk. Compensation.** The clerk of the board shall keep an accurate record of all proceedings of the board, give or post all notices, make out all reports and statements and perform all other duties required by law or by the board. He shall receive such compensation as shall be fixed by the board, not less than five nor more than twenty-five dollars per annum. § 63, c. 62, 1890.

**§ 684. Treasurer's bond, how approved. Vacancy, how filled.** The school treasurer shall, on or before the second Tuesday in July following his election and before entering upon his duties, give a bond to the school district conditioned for the honest and faithful discharge of his duties and that he will render a true account of all funds and property that shall come into his hands and pay and deliver the same according to law. Such bond shall be in such sum as may be fixed by the board, but not less than double the sum to come into his hands in any one year as nearly as may be ascertained, which bond shall be signed by two or more sufficient sureties to be approved by the school board. In case the school board neglects or refuses to approve the bond of such treasurer and the sureties thereon, such treasurer may present the same to the county superintendent and serve notice thereof upon the board and due proof of such notice being made to the county superintendent, he shall unless good cause for delay appears, proceed to hear and determine the sufficiency of the bond and the sureties thereon, and may approve or disapprove the same as the facts warrant. In case a vacancy occurs in the office of district treasurer, it shall be the duty of the county treasurer of the county wherein such school district is located, upon being notified by the county superintendent or clerk of such school district that such vacancy exists, to perform the duties of treasurer of such school district until the vacancy is duly filled. § 64, c. 6, 1890.

**§ 685. When additional bonds required.** Whenever the amount in the hands of the treasurer or subject to his order, exceeds two-thirds of the penal sum of his bond or when in the judgment of the board or of the county superintendent the security on such bond is impaired, the board or county superintendent shall require an additional bond. If the treasurer fails for twenty days to give such additional bond the office shall be declared vacant and the vacancy shall be filled as provided in this chapter. § 65, c. 62, 1890.

**§ 686. School funds, how paid out.** The school treasurer shall keep such accounts and make such reports as are required of him by law, and shall publish his annual statement in a newspaper published in the nearest city or town to his district. He shall pay no money out of the school funds in his hands except upon the warrant of the school board signed by the president and counter-signed by the § 66, c. 62, 1890.  
§ 11, c. 36, 1891.  
am'd.

clerk. He shall pay all warrants properly drawn and signed when presented, if there is any money in his hands or subject to his order for their payment.

§ 67, c. 62, 1890.  
§ 12, c. 56, 1891.

**§ 687. Warrants to be indorsed when no funds to pay.** When a warrant is presented to the treasurer for payment and there is no money in his hands or subject to his order belonging to the proper fund for the payment of such warrant, he shall indorse on such warrant "presented for payment this.....day of.....18.. and not paid for want of funds," and shall sign such indorsement. If he has in his hands or subject to his order money for the part payment of such warrant, he shall make such part payment and indorse the sum on the warrant and add "balance not paid for want of funds," signing the same. He shall keep a correct register of all warrants so presented and indorsed. Each warrant thus presented and indorsed shall draw interest on the amount unpaid at eight per cent per annum from the date of such presentation and indorsement until paid; provided, that when there shall come into the hands of the treasurer or subject to his order money applicable to the payment of any warrant which has been so presented and registered, the treasurer shall notify in writing by mail the drawee of such warrant at his last known place of residence to present such warrant for payment, and interest shall cease upon every such warrant ten days after such notice shall have been sent, and such money shall be held for the payment of such warrant.

§ 68, c. 62, 1890.  
§ 13, c. 56, 1891.

**§ 688. Warrants, what to specify.** Each warrant drawn by the clerk of the board on the district treasurer must specify the purpose for which it is drawn, the fund on which it is drawn, and the person to whom payable; and no warrant shall be issued except for an indebtedness incurred prior to its issue.

§ 69, c. 62, 1890.

**§ 689. Oath and bonds, where to be filed.** All official oaths and bonds of school district officers shall be filed with the district clerk, who shall immediately certify to the county superintendent the fact of such oaths and bonds being filed. In case of the breach of any of the conditions of the treasurer's bond, the board, through its president, and in case of his refusal so to do, the county superintendent shall cause an action to be commenced and prosecuted thereon in the corporate name of the district, and any money collected for the district shall be paid to the district treasurer and any money collected for fines shall be paid into the county treasury and be credited to the general school fund of the state. If the board and county superintendent both fail or refuse to bring such action any taxpayer in the district may commence and prosecute such action, and the necessary expense thereof shall be paid out of the district treasury unless otherwise ordered by the court.

§ 70, c. 62, 1890.

**§ 690. Salary of school treasurer.** The school treasurer shall be paid for his services such sum as shall be fixed by the board not less than five nor more than twenty-five dollars per annum.

ARTICLE 6. — POWERS AND DUTIES OF DISTRICT SCHOOL BOARDS.

§ 71, c. 62, 1891.

**§ 691. General powers.** The district school board shall have the general charge, direction and management of the schools of the district, and the care, custody and control of all the property belonging to it, subject to the provisions of this chapter.

§ 692. **Power to establish schools.** It shall organize, maintain and conveniently locate schools for the education of children of school age within the district, and change or discontinue any of them in the cases provided by law. § 72, c. 62, 1890.

§ 693. **Repairs, fuel and supplies.** It shall make all necessary repairs to the school houses, outbuildings and appurtenances, and shall furnish fuel and all necessary supplies for the schools. § 73, c. 62, 1890.

§ 694. **Furniture, maps, registers, school library.** It shall furnish to each school all necessary and suitable furniture, maps, charts and apparatus, including Webster's International Dictionary. The school registers and all school blanks used shall be those furnished by the state department of public instruction. It shall have power to purchase and keep for the use of the inhabitants of the school district a circulating library of the value of not more than fifty dollars, to be selected by the school board from any list of books approved by the superintendent of public instruction, and furnished to the county superintendents for that purpose, and it shall not purchase any books not contained in such list. With the consent of a majority of the voters of the district at a meeting duly called for that purpose, due notice of which has been given as provided by law for other meetings of the voters of the school district, the district school board may purchase and select a library of the value of more than fifty dollars but not to exceed one hundred dollars in value. It shall have the care and custody of the library and may appoint as librarian any suitable person including one of their own number. It shall make rules to govern the circulation and care of the books while in the hands of pupils or other persons and may impose and collect penalties for injuries done to any book by the act, negligence or permission of the person who takes the same or while in his possession. No book shall be loaned for a longer period than two weeks at any time to any one person and never to any person not a resident of the district. The library shall be open at least once each week for the accommodation of its patrons. It shall, under proper rules, permit teachers to take books from the library to their schools for use in illustrating any subject and for instruction. It may at any time exchange any part or all of its library with any other district or person, so far as different books may be so obtained, for equal values of the books exchanged, and may at any time accept donations of books for the library; but it shall exclude therefrom all books unsuited to the cultivation of good character and good morals and manners, and no sectarian publications devoted to the discussion of sectarian differences and creeds shall be admitted to the library. § 74, c. 62, 1890.  
§ 14, c. 56, 1891.  
am'd.

§ 695. **Teachers, how employed. Salaries, how graded.** It shall employ the teachers of the school district, and may dismiss a teacher at any time for plain violation of contract, gross immorality or flagrant neglect of duty. No person shall be permitted to teach in any public school who is not the holder of a teacher's certificate or a permit to teach, valid in the county or district in which such school is situated; and every contract for the employment of a teacher must be in writing, and such contract must be executed before such teacher begins to teach in such schools. It shall grade the salaries of teachers for the district in accordance with the grades of certificates, and no teacher holding a certificate of a lower grade shall be paid a salary equal to or in excess of that paid to a teacher holding a certificate of a higher grade in the same district. § 75, c. 74, 1890.  
§ 15, c. 56, 1891.  
am'd. —

§ 76. c. 62. 1890. **§ 696. Pupils from other districts.** It shall have power to admit to the schools in the district, pupils from other districts when it can be done without injuring or overcrowding such schools, and shall make regulations for their admission and the payment of their tuition. It shall have power to arrange with the board of an adjacent district for sending to such district such pupils as can be conveniently taught therein, and for paying their tuition. It shall also have power to make proper and needful rules for the assignment and distribution of pupils to and among the schools in the district and their transfer from one school to another.

§ 77. c. 62. 1890. **§ 697. Rules. Suspension of pupils.** It shall assist and co-operate with teachers in the government and discipline of the schools, and may make proper rules and regulations therefor. It may suspend or expel from school any pupil who is insubordinate or habitually disobedient, but such suspension shall not be for a longer period than ten days nor such expulsion beyond the end of the current term of school.

§ 78. c. 62. 1890. **§ 698. Branches of study.** Subject to the approval of the county superintendent, it shall have power to determine what branches, if any, in addition to those required by law shall be taught in any school of the district.

§ 79. c. 62. 1890,  
16. c. 56. 1891. **§ 699. Tax levy. Notice to county auditor.** It shall have power to levy upon the property in the district a tax for school purposes of not exceeding thirty mills on the dollar in any year, which levy shall be made by resolution of the board prior to the twentieth day of July. The clerk shall immediately thereafter notify in writing the county auditor of the amount of tax so levied. It shall not have power to abate or reduce the amount of tax so levied after the county auditor has been notified of the amount of such levy.

§ 80. c. 62. 1890. **§ 700. When school houses can be used for other purposes.** It may permit a school house, when not occupied for school purposes, to be used under careful restrictions for any proper purpose, giving equal rights and privileges to all religious denominations or political parties, but for any such use or privilege it shall not be at any cost for fuel or otherwise to the district. Nor shall any furniture which is fastened to the floor be removed, and whoever removes any school furniture for any other purpose than repairing the same or for repairing the school room shall be guilty of a misdemeanor and shall be fined not less than five nor more than ten dollars for each offense. All fines imposed and collected under the provisions of this section shall be paid into the general school fund of the state.

§ 81. c. 62. 1890,  
17. c. 56. 1890,  
am'd. **§ 701. School houses and sites, how determined.** Whenever in the judgment of the board it is desirable or necessary to the welfare of the schools in the district or to provide for the children therein proper school privileges, or whenever petitioned so to do by one-third of the voters in the district, the board shall call a meeting of the voters in the district at some convenient time and place fixed by the board to vote upon the question of the selection, purchase, exchange or sale of a school house site, or the erection, removal or sale of a school house. The president of the board shall be the chairman and the clerk of the board, secretary of such meeting. In case either of these officers is not present, his place shall be filled by some one chosen by the voters present. Three notices of the time, place and purpose of such meeting shall be posted in three public places in the district by the clerk, at least ten days prior to such meeting. If a

majority of the voters present at such meeting shall by vote select a school house site, or shall be in favor of the purchase, exchange or sale of the school house, as the case may be, the board shall locate, purchase, exchange or sell such site, or erect, remove or sell such school house, as the case may be, in accordance with such vote; provided, that it shall require a vote of two-thirds of the voters present and voting at such meeting to order the removal of the school house and such school house so removed cannot again be removed within three years from the date of such meeting.

**§ 702. School house sites, how obtained.** The school board of any school district may take in the corporate name thereof, any real property not exceeding two acres in area chosen as a site for school house, as provided in this chapter, and may hold and use such tract for school purposes only. Should the owner of such real property refuse or neglect to grant and convey such site, a site for such school house may be obtained by proceeding in eminent domain as provided in the code of civil procedure. If the site so selected is not used for the purposes for which it is taken for two successive years, it shall revert to the original owner or his assigns upon repayment of the sum originally paid by the corporation together with a reasonable consideration for the improvement. If such owner or his assigns neglects or refuses to make such repayment for one year after demand therefor by the board such site shall be the property of the district.

§ 82, c. 62, 1890.  
am'd.

**§ 703. Schools to be organized on petition.** If a petition signed by the persons charged with the support and having the custody and care of nine or more children of school age, all of whom reside not less than two and one-half miles from the nearest school is presented to the board asking for the organization of a school for such children, the board shall organize such school and employ a teacher therefor if a suitable room for such school can be leased or rented at some proper location, not more than two and one-half miles distant from the residence of any one of such children, and if such petition is signed by the persons charged with the support and having the custody and care of twelve or more of such children the board shall organize a school and employ a teacher therefor, and if no suitable room for such school can be leased or rented, the board shall call a meeting of the voters of the district for the selection and purchase of a school house site therefor and the purchase or erection of a school house as provided for in section 700. If at such meeting no such site is selected or if it is not voted to erect or purchase a school house for such school the board shall select and purchase a school house site, and erect, purchase or move thereon a school house at a cost of not more than seven hundred dollars for such house and furniture therefor.

§ 83, c. 62, 1890.  
§ 18, c. 56, 1891.

**§ 704. School terms, how arranged. When schools may be discontinued.** The district board shall determine and fix the length of time the schools of the district shall be taught in each year, and when each term of school shall begin and end. It shall so arrange such terms as to accommodate and furnish school privileges equally and equitably to pupils of all ages; provided, that every common school shall be kept in session for at least four months in each school year, and in each district in which the number of persons of school age is an average of fifteen or more to the school, each school shall be kept in session for at least six months in each school year; provided, further, that any school may be discontinued when the

§ 84, c. 62, 1890.  
am'd.

number of pupils of school age residing nearest to such school shall be less than four, and all contracts between school boards and teachers shall contain a provision that no compensation shall be received by such teacher from the date of such discontinuance or when with the consent of a majority of the patrons of such school proper and convenient school facilities can be provided for the pupils therein in some other school.

§ 85, c. 62, 1890.

**§ 705. Additional school time.** If a majority of the patrons of any school averaging for its last term twelve or more pupils in daily attendance, shall petition the board to continue such school for an additional time, not exceeding nine months in any school year, the board shall continue such school for that length of time, if there are funds in the treasury sufficient for that purpose.

§ 86, c. 62, 1890.  
§ 19, c. 56, 1891.

**§ 706. District high schools, how established and controlled.** In any district containing four or more common schools and having an enumeration of sixty or more persons of school age residing therein the board may call, and if petitioned so to do by ten or more voters in the district, shall call a meeting of the voters of such district in the manner prescribed in section 700 to determine the question of the establishment of a district high school. If a majority of the voters at such meeting vote in favor of establishing such high school, the meeting shall further proceed to select a site therefor and to provide for the erection or purchase of a school building, or for the necessary addition to some school building therefor. Thereupon the board shall erect or purchase a building or make such addition for such high school, as shall be determined at such meeting, and shall establish therein a district high school containing one or more departments, and employ teachers therefor. Such school shall be kept in session for such time each year not less than three months, as the board may determine. The board shall, subject to the approval of the county superintendent, grade such high school and prescribe the studies to be pursued therein, and shall have the same management and control thereof as of the common schools in the district. Two or more adjacent school districts may join in the establishment and maintenance of such high school, when empowered so to do by a majority of the voters in each district at a meeting called and held as provided for in this section, in which case the building and furniture occupied and used for such high school shall belong to the districts so uniting, and all the costs of maintaining such school, including wages of teachers and all necessary supplies shall be paid by such districts in proportion to the assessed valuation of the property in each, and the employment of teachers therefor, and the management, control and grading thereof shall be vested in the joint boards of such districts, subject to the approval of the county superintendent of the county in which such school is situated.

§ 87, c. 62, 1890.  
§ 20, c. 56, 1891.

**§ 707. School census. Annual school report.** The board shall cause the clerk to make an enumeration each year of all unmarried persons of school age, being over six and under twenty years of age, having their legal residence in the district on the first day of December of that year, giving the name and age of such persons and the name of the parent or guardian having the care or custody of each. Such enumeration shall be made upon and in accordance with the blanks furnished therefor by the county superintendent and shall be returned to the county superintendent prior to the twentieth day of December. A copy of such enumeration shall also be kept in the



office of the district clerk. The board shall also cause the district clerk to make out an annual school report for the year beginning January first and ending December thirty-first, containing such financial and statistical statements and items as shall be required by the superintendent of public instruction upon and in accordance with the blanks furnished therefor by the county superintendent. Such report shall be carefully examined and certified as correct by the board at its regular meeting in January and transmitted to the county superintendent prior to the first day of February following. A copy of such report shall be filed in the district clerk's office.

**§ 708. Records open to inspection.** All reports, books, records, vouchers, contracts and papers relating to school business in a school district in the office of the clerk or treasurer, shall at all times be open to the inspection of any director, who shall advise and aid in securing correct records and accounts and legal reports, and they shall likewise be open to the superintendent of public instruction, and county superintendent and any particular paper or record shall be exhibited at reasonable hours to any voter or tax payer. § 83, c. 62, 1890.

**§ 709. Records and teaching in English.** All reports and records of school officers and proceedings of all school meetings shall be in the English language, and if any money belonging to any district shall be expended in supporting a school in which the English language shall not be taught exclusively, the county superintendent or any taxpayer of the school corporation may in a civil action in the name of the corporation recover for such corporation all such money from the officer so expending it or ordering or voting for its expenditure. § 83, c. 62, 1890.

#### ARTICLE 7.—SCHOOL FUNDS.

**§ 710. State tuition fund, how raised.** The net proceeds arising from all fines and penalties for violation of state laws, from leasing the school lands, the interest and income from the state permanent school fund together with the school poll tax and all school taxes levied by a general law shall be collected and paid into the state treasury in the same manner as is provided by law for the collection and payment of state taxes, and shall constitute the state tuition fund, which shall be apportioned among the several counties of the state in proportion to the number of children of school age in each, as shown by the last enumeration authorized by law. § 90, c. 62, 1890.  
§ 1, c. 57, 1891.

**§ 711. County treasurer to report funds quarterly. State superintendent apportions.** It shall be the duty of the county treasurer to receive from the proper officers the net proceeds of fines, penalties and forfeitures for violation of state laws, to collect the school poll tax and all taxes levied for school purposes by general law, and all moneys arising from leasing school lands within the county, and to forward a detailed statement of the moneys so collected, specifying the amount received from each of the above sources, to the state auditor at the same time that he is required to make reports of other moneys to such auditor. It shall be the duty of the state auditor on or before the third Monday in February, May, August and November in each year to certify to the superintendent of public instruction the amount of the state tuition fund and the state superintendent shall immediately apportion such fund among the several counties of the state in proportion to the number of children of § 91, c. 62, 1890.  
§ 1, c. 57, 1891.

school age residing in each as shown by the last enumeration provided for by law, and certify to the state auditor, state treasurer and to the county treasurer and county superintendent of each county, the amount apportioned to the respective counties. Immediately upon receipt of such apportionment from the state superintendent as herein provided, the state auditor shall draw a warrant upon the state treasurer for the full amount of the state tuition fund apportioned to the several counties and shall deliver the same to the state treasurer taking his receipt therefor, and shall notify the several county treasurers of the amount due their respective counties and that such warrant has been issued therefor and the state treasurer shall pay on such warrant to the several county treasurers the amount due their respective counties; provided, however, that all moneys arising from interest on the permanent school fund and from leasing school lands shall be apportioned under a separate item and such money shall be taken account of as a separate item by all officers making or certifying such apportionment, or through whose hands any portion of such fund shall pass and it is further made the duty of the district treasurer to keep such fund separate from all other funds and if at the close of the school year any part of such fund which was apportioned prior to the third Monday of November of such year remains in the hands of the district treasurer, he shall return the same to the county treasurer taking his receipt therefor, and the county treasurer shall return all such funds so returned or that were not drawn by the district treasurer from the county treasurer to the state treasurer who shall receipt for the same, and the county treasurer shall certify to the state auditor the amount so returned to the state treasurer.

1890 92, c. 62, 1891.  
1. c. 57, 1891.

**§ 712. Funds defined. How used.** All money received by the school district from the apportionment made by the superintendent of public instruction shall constitute and be designated the state tuition fund. All money received from district taxes, from subscription, from sale of property, or from any other source whatever except from apportionment made by the superintendent of public instruction, shall be designated the special fund. In addition to the state tuition fund and the special fund, a sinking fund may be established as provided by this article. The state tuition fund shall be used only in the payment of teachers' wages: provided, that if the state tuition fund apportioned to any district in any one year is insufficient for the payment of teachers' wages in such district any money on hand or available belonging to the special fund of such district may be applied to meet such deficiency: provided, further, that if the state tuition fund apportioned to any one district in any one year is more than sufficient for the payment of teachers' wages in such district the portion of such fund in excess of the amount so required may be applied to the payment of warrants drawn upon the special fund of such district, if such district has school the required number of months during such year as required by law.

1890 93, c. 62, 1891.  
1. c. 57, 1891.

**§ 713. Funds controlled and paid out by district treasurer.** All funds shall be kept in the possession or under the control of and paid out by the district treasurer, and he shall keep one general account for each district of the entire receipts and expenditures, and separate itemized accounts as herein provided for each class of receipts and expenditures. His books shall at all times show by entries under proper heads all receipts of funds and payments there-

from, so as to enable any person readily to ascertain any balance in any account or any funds.

**§ 714. Not entitled to tuition fund, when. Enumeration.** No school district shall be entitled to receive any portion of the state tuition fund that fails to make a report of the enumeration of children of school age in the manner provided by law, nor until such enumeration has been taken and reported as required by law. The county superintendent of schools shall not authorize the payment of money apportioned to any district unless the bond and oath of such treasurer duly approved and certified are on file in the office of the district clerk and a certificate thereof filed in the office of the county superintendent. New districts organized after the annual enumeration has been taken shall proceed immediately to take the enumeration as provided by law, and after the receipt of such enumeration by the superintendent of public instruction through the county superintendent, the newly organized districts shall receive their proportionate share of the funds to be apportioned.

§ 94, c. 62, 1890.  
§ 1, c. 57, 1891.

**§ 715. Apportionment of funds by county superintendent.** Within thirty days and in not less than twenty days after receiving the certificate of apportionment from the superintendent of public instruction the county superintendent shall apportion separately to the several school districts, special districts and districts organized under special law, which are entitled to any portion of the state tuition fund within the county in proportion to the number of children residing in each over six and under twenty years of age, excluding all married persons, as appears from the last enumeration authorized by law upon which the superintendent of public instruction made the apportionment to the several counties, and he shall immediately notify each district treasurer of the amount of money due his school district, and shall certify to the county treasurer and to the county auditor the amount due each school district. The county treasurer shall deliver to the several district treasurers upon the order of the county auditor the amounts apportioned to their respective districts, taking a receipt therefor.

§ 95, c. 62, 1890.  
§ 1, c. 57, 1891.

**§ 716. Special districts entitled to tuition fund.** Special school districts shall be entitled to receive their proportion of the state tuition fund; provided that the clerk or secretary of the board of education thereof shall make a report to the county superintendent of the enumeration of children of school age therein at the time and in the manner prescribed in this chapter for other school districts to report the same.

§ 96, c. 62, 1890.  
§ 1, c. 57, 1891.

**§ 717. Treasurer's accounts. Annual settlement.** The district treasurer shall open new accounts with each fund at the beginning of each school year and the balance in each fund shall be brought down and become the first entry in opening the account for the new year. On the Tuesday in January succeeding the annual meeting of the school board in each year, the school board shall make settlement with the district treasurer and shall carefully examine his books, accounts and vouchers and shall ascertain if the amount of all warrants, bonds and coupons paid and redeemed or paid in part together with the cash in his hands or under his control, is equal to the amount of the cash on hand at the beginning of the school year, together with all money received by him from all sources for school purposes during the year. The district treasurer shall deliver to the board at such annual meeting all warrants, bonds and coupons paid

§ 97, c. 62, 1890.  
§ 1, c. 57, 1891.

and redeemed by him during the school year and held by him as vouchers taking the receipt of the board therefor, and such vouchers shall forthwith be filed with the district clerk. He shall at that meeting make his annual report in triplicate, one copy to be preserved in the treasurer's office, one to be filed with the clerk of the school board, and one to be transmitted to the county superintendent of schools, and the board shall cause to be published an itemized statement of the receipts and expenditures of the preceding year. The treasurer's reports shall show the following:

RECEIPTS.

- The balance at the close of the year.
- The amount received into the state tuition fund.
- The amount received into the special fund.
- The amount received into the sinking fund.

EXPENDITURES.

- The amount paid for school houses, sites and furniture.
- The amount paid for apparatus and fixtures.
- The amount paid for teachers' wages.
- The amount paid for services and expenses of school officers.
- The amount paid for redemption of bonds.
- The amount paid for interest on bonds.
- The amount paid for incidental expenses.
- The cash on hand at the close of the school year.

Such report shall include such other items as may be required by the district board or the superintendent of public instruction, and shall be upon and in conformity with the blanks furnished him for that purpose.

98, c. 62, 1890.  
1. c. 57, 1891.

**§ 718. When county treasurer to pay funds to district treasurer.** The treasurer of each district shall apply to the county auditor for an order, and the county treasurer, shall pay over to him on such order all of the school money collected for such district and all school money apportioned to such district by the county superintendent, and the county auditor shall issue such order when notified by the county superintendent in writing that such district treasurer has qualified and filed his oath and bond as provided by law. But no such notice of qualification is required during the term of each district treasurer, and when a new one is appointed for any reason or the incumbent has become disqualified, the clerk of the school board shall so inform the county superintendent, who shall also inform the county auditor. It shall be the duty of the county treasurer when payment is made to any school treasurer of any funds herein provided for, immediately to notify the clerk of the school board of the payment of the same.

99, c. 62, 1891.  
1. c. 57, 1891.

**§ 719. County treasurer to keep accounts with school corporations.** Each county treasurer shall keep a regular account with each school corporation, in which he shall charge himself with all taxes collected by levy of the district school board and all sums apportioned to the district by the county superintendent or other authority, and all sums received for the district, and he shall credit himself with all payments made to the treasurer of the district, distinguishing between the items paid by apportionment, those from local taxes, and those from other sources. He shall also credit himself

with all payments for redemption or indorsement of warrants in the collection of taxes and shall deliver to the district treasurer a duplicate tax receipt for the amount of each warrant so indorsed or redeemed together with all warrants so redeemed, at the time of making other regular payments to the district treasurer. To these credits, to balance the accounts, he shall add all items for legal fees, for collection and other duties.

§ 720. **School taxes, how and when collected.** It shall be the duty of the county treasurer to collect the taxes for school purposes at the same time and in the same manner that the county and state taxes are collected, and full power is hereby given to him to sell property for school taxes the same as is provided by law for the collection of other taxes. Whenever an error occurs in any school corporation's tax list the district school board or board of education in special districts may correct such errors and refund such taxes improperly collected. All penalties and interest collected on delinquent school taxes shall be applied to the proper fund to which such delinquent taxes belong.

§ 100, c. 62, 1890.  
§ 1, c. 57, 1891.

ARTICLE 8. — TAXES.

§ 721. **School board to levy tax.** Each district school board shall have power and it shall be its duty to levy upon all the property subject to taxation in the district a tax for school purposes of all kinds authorized by law, not exceeding in the aggregate a rate of thirty mills on the dollar in any one year. Such tax shall be levied by resolution of the board prior to the twentieth day of July in each year, which resolution shall be entered in the records of the proceedings of the board. The clerk shall immediately thereafter notify the county auditor in writing of the amount of tax so levied, and such notice shall be in substantially the following form:

§ 101, c. 62, 1890.  
§ 21, c. 56, 1891.

State of North Dakota, }  
County of..... } ss.  
..... School District..... }  
To .....  
County Auditor of ..... County.

Sir:  
You are hereby notified that the school board of ..... school district has levied a tax of ..... dollars upon all real and personal property in said school district for school purposes. You will duly enter and extend such tax upon the county tax list for collection, upon the taxable property of such school district for the current year.  
Dated at ..... this .... day of ..... 189....

.....  
District Clerk.

The notice of a tax to pay any judgment against the district shall be in addition to the regular tax and shall be certified to the county auditor under the same general form, as near as may be; provided, that if the boundaries of such district shall embrace a portion of two counties then the clerk of such district shall certify to the county auditor of the county in which is located the original district to which such portion of the district embraced in the other county is attached, in addition to the tax levy above mentioned, a list and valuation of all property subject to taxation in such portion of such district embraced in the other county, as shown by the assessor making the

assessment in such county, township or assessor's district, and the auditor shall enter such property upon the tax duplicate of his county and levy all school taxes upon the same, and the county treasurer of the county shall collect the taxes levied thereon the same as other taxes are collected and pay the same over to the treasurer of the district entitled thereto.

§ 102, c. 62, 1890.  
am'd.

**§ 722. Tax, how levied.** The county auditor of each county shall at the time of making the annual assessment and levy of taxes, levy a tax of one dollar on each elector in the county for the support of common schools, and a further tax of two mills on the dollar upon all the taxable property in the county, to be collected at the same time and in the same manner as other taxes are collected, which shall be apportioned by the county superintendent of schools among the school districts of the county as provided by law.

§ 103, c. 62, 1890.

**§ 723. Maximum levy for final judgment. Taxes to be uniform.** When any final judgment shall be obtained against a school district the board thereof shall levy a tax upon the taxable property of such district not exceeding in amount twenty mills on the dollar in any one year, which shall be used in the payment thereof. The county auditor shall make out, charge and extend upon the tax list against each description of real property and against all personal property, and upon all taxable property of the district, all such taxes for schools and judgments he is so notified has been levied by the district in which the property is situated and taxable, in the same manner in which the county and state tax list is prepared, and deliver it to the county treasurer at the same time. All taxes for school purposes shall be uniform upon the property within each school district.

§ 104, c. 62, 1890.

**§ 724. Statement of assessed valuation.** Each assessor shall on or before the first day of July in each year furnish to the clerk of the school district, to the county superintendent of schools and to the county auditor a statement of the assessed valuation of all the property in such corporation subject to taxation.

§ 105, c. 62, 1890.

**§ 725. Indebtedness of district, how adjusted when board illegal or failure to elect.** If any school district in the state has for one or more years past, either through failure to elect a school board or through failure of the county superintendent to appoint a school board, been without a legal school board or if hereafter any school district through such failure to elect or to appoint such school board shall be without such legal school board, and such district shall have an authorized indebtedness either in bonds, interest due on bonds or otherwise, it shall be the duty of the county superintendent, the county treasurer and county auditor, acting as a board of adjusters, to assess upon the taxable property of such school corporation a tax not to exceed twenty mills on the dollar in any one year upon the assessed valuation thereof for the payment of the same. Which tax so levied shall be extended upon the tax lists by the county auditor and be collected by the county treasurer as other taxes are collected and shall be applied upon and used for the payment of such indebtedness, and shall be paid to the creditors of such district upon the warrant of the county auditor countersigned by the county superintendent, and all warrants, bonds, interest coupons, receipted bills or accounts shall be filed in the office of the county auditor and in case such school corporation has a bonded indebtedness, it shall be the duty of such board of adjusters to levy a tax upon the property of such district sufficient to create a sinking fund for the redemption

of such bonds upon the maturity of the same, such sinking fund to be levied and provided for in compliance with the requirements of such bonds.

#### ARTICLE 9. — VACANCIES.

§ 726. **Vacancy in office superintendent public instruction filled by appointment.** Should a vacancy occur in the office of the superintendent of public instruction, the governor shall have power and it shall be his duty to fill such vacancy by appointment, which appointment shall be valid until the next general election and until his successor is elected and qualified. § 106, c. 62, 1890.

§ 727. **Vacancy in office of county superintendent, how filled.** Should a vacancy occur in the office of county superintendent of schools, the board of county commissioners of such county shall have power and it shall be their duty to fill such vacancy by appointment, as provided by law, which appointment shall be valid until the next annual school election. The county auditor shall immediately notify the superintendent of public instruction of such appointment. § 107, c. 62, 1890.

§ 728. **Vacancy in office of director or treasurer, how filled.** When any vacancy occurs in the office of director or treasurer of a school district by death, resignation, removal from the district, or otherwise, the fact of such vacancy shall be immediately certified to the county superintendent by the clerk of the district, and such superintendent shall immediately appoint in writing some competent person, who shall qualify and serve until the next annual school election. The county superintendent shall at the same time notify the clerk of the school district and the county auditor of every such appointment. § 108, c. 62, 1890.

§ 729. **Vacancy in office of clerk, how filled.** Should the office of clerk of a school district become vacant, the school board shall immediately fill such vacancy by appointment and the president of the board shall immediately notify the county superintendent and the county auditor of such appointment. § 109, c. 62, 1890.

§ 730. **Office, when deemed vacant.** Any office of a school district shall become vacant by resignation of the incumbent thereof, but such resignation shall not take effect until a successor has qualified according to law. Any office of a school district shall be deemed vacant if the person duly elected thereto shall neglect or refuse for the period of two weeks after the beginning of the term for which he was elected, to accept and qualify for such office and serve therein. Any school officer may be removed from office by a court of competent jurisdiction, as provided by law. § 110, c. 62, 1890.  
§ 22, c. 56, 1891.

#### ARTICLE 10. — EQUALIZATION OF INDEBTEDNESS.

§ 731. **Equalization of indebtedness, by arbitration.** After the boundaries of a school district have been established as provided for in this chapter, all school districts or parts of school districts that existed as school corporations before the taking effect of this code and that are now included in one school district shall effect an equalization of property, funds on hand and debts. To effect this each school board of such corporation, constituting a school district under the operation of this chapter, shall select one arbitrator and the several arbitrators so selected together with the county superinten- § 111, c. 62, 1890.

dent shall constitute a board of arbitration to effect such equalization. If in any case the number of arbitrators, including the county superintendent shall be an even number, the county treasurer shall be included and be a member of such board. The county superintendent shall fix the time and place of such meeting.

§ 112, c. 62, 1890. **§ 732. Tax to equalize and pay previous debts.** Such board shall take an account of the assets, funds on hand, the debts properly and justly belonging to or chargeable to each corporation or part of a corporation as it or they existed heretofore, and levy such a tax against each as will in its judgment justly and fairly equalize their several interests.

§ 113, c. 62, 1890. **§ 733. Maximum annual tax levy for such purposes.** When the amounts to be levied upon the several corporations or parts of corporations mentioned in the preceding section shall be fixed, a list thereof shall be made wherein the amount shall be set down opposite each corporation. The whole shall be stated substantially in the form herein required for certifying school taxes and addressed to the county auditor, and shall be signed by a majority of such board of arbitration; such levy shall be deemed legal and valid upon the taxable property of each corporation; provided, however, that not more than fifteen mills thereof shall be extended against such taxable property in any one year, and such a levy not exceeding fifteen mills on the dollar shall be extended as in this section provided, from year to year, until the whole amount shall be so levied. The county auditor shall preserve such levies and shall extend the several rates from year to year, as above required by law for district taxes and the taxes shall be collected at the same time and in the same manner as other taxes are collected.

§ 114, c. 62, 1890. **§ 734. Proceeds to be turned over to the respective districts.** Opposite the several descriptions of property on the tax list shall be entered the school district within which it lies, and all the proceeds of these equalizing taxes shall be collected and paid over to the treasurer of the proper school district within which the property is situated. The proceeds of taxes upon parts of districts lying outside of the districts as at present constituted, with which they were equalized, shall be paid to the treasurer of the school district within which the property is situated, the same as hereinbefore provided for regular taxes.

§ 115, c. 62, 1890. **§ 735. Maximum tax levy for all school purposes.** The taxes levied for purposes of equalization shall be, in addition to all other taxes for school purposes; provided, that all taxes for school purposes, including such taxes for equalization, shall not exceed thirty mills on the dollar in any one year. The provisions of this article shall apply to and govern all school districts and parts of school districts hereafter divided or consolidated with each other, or with other districts in the division uniting or apportionment of their debts and liabilities or property and assets.

#### ARTICLE 11. — EXAMINATIONS AND CERTIFICATES.

§ 116, c. 62, 1890. **§ 736. Examinations for teachers' certificates.** The superintendent of public instruction shall prepare or cause to be prepared all questions for the examination of applicants for teachers' certificates both county and state, and shall prescribe rules for the conduct of all such examinations.



**§ 737. Professional certificates, who entitled.** He may issue a state certificate to be valid for life, unless sooner revoked, to be known as a professional certificate. Such certificate shall be issued only to those persons of good moral character, who pass a thorough examination in all the branches included in the courses of study prescribed for the common and high schools of the state, including methods of teaching and such other branches as the superintendent of public instruction may direct. Such certificates shall in no case be granted unless the applicant has had an experience as a teacher of at least five years, and can satisfy such superintendent of his ability to instruct and properly manage any high school of the state. Such certificate shall be valid throughout the state and the holder shall be authorized to teach in any of the common or high schools of the state without further examination; provided, that any person who is a graduate of the four years' normal course in the university of North Dakota, and has had three years successful experience as a teacher, may be granted such professional certificate without further examination; provided, further, that if the holder of a professional certificate shall at any time cease to teach, or to be engaged in other active educational work for the space of three years, he shall be liable to a re-examination and to the cancellation of his certificate, subject to such rules as may be prescribed by such superintendent. § 117. c. 62. 1890.

**§ 738. Normal certificate, who entitled.** He may issue a state certificate, to be valid for a term of five years, unless sooner revoked, to be known as a normal certificate. Such certificate shall be issued only to those persons of good moral character who have completed the prescribed course of study in one of the normal schools of the state or in a normal school elsewhere having an established reputation for thoroughness, but the superintendent of public instruction may examine any such applicant in his discretion. Such certificate shall not be granted unless the applicant shall have taught school successfully for at least two years. Such certificate shall be valid throughout the state and the holder shall be authorized to teach in any of the public schools of the state; provided, that any person who is a graduate of the four years' normal course in the university of North Dakota, and who has had one year's successful experience as a teacher, may be granted such normal certificate without further examination. No state certificate shall hereafter be issued by any normal school in the state. § 118. c. 62. 1890.

**§ 739. Fee for certificate. Certificate, how revoked.** The superintendent shall require a fee of five dollars from each applicant for a professional or normal certificate; which fee shall be used by him to aid in the establishment and maintenance of teachers' reading circles in the state. He shall revoke at any time any certificate issued in the state, for any cause which would have been sufficient ground for refusing to issue the same had the cause existed or been known at the time it was issued. § 119. c. 62. 1890.

**§ 740. Examination of teachers by county superintendent.** The county superintendent shall hold a public examination of all persons over eighteen years of age, offering themselves as candidates for teachers of common schools at the most suitable place in the county, on the second Friday in January, March, May, July, September and November of each year, and, when necessary, such examination may be continued on the following day, at which times he shall examine them by a series of written or printed questions, according § 120. c. 62. 1890.

to the rules prescribed by the superintendent of public instruction. If from the percentage of correct answers required by the rules and other evidence disclosed by the examination, including particularly the superintendent's knowledge and information of the candidate's successful experience, if any, the applicant is found to be a person of good moral character, to possess a knowledge and understanding together with aptness to teach and govern, which will enable such applicant to teach in the common schools of the state the various branches required by law, such superintendent shall grant to such applicant a certificate of qualification.

§ 121, c. 62, 1890.  
23, c. 56, 1891.  
1. c. 52, 1895.

**§ 741. Teachers' grades, how established. Re-examination, when allowed.** Such certificates shall be of three regular grades, the first grade for a term of three years, the second grade for a term of two years, and the third grade for one year, according to the ratio of correct answers of each applicant and other evidence of qualification appearing from the examination. No certificate shall be granted unless the applicant shall be found proficient in and qualified to teach the following branches of a common English education: Reading, writing, orthography, language lessons and English grammar, geography, United States history, arithmetic, civil government, physiology and hygiene, and for a first and second grade can pass a satisfactory examination in theory and practice of teaching. In addition to the above, applicants for a first grade certificate shall pass a satisfactory examination in physical geography, elements of natural philosophy, elements of physiology, elementary geometry and algebra. The percentage required to pass any branch shall be prescribed by the superintendent of public instruction. In addition to these regular grades of certificates, the county superintendent may grant permission to teach until the next regular examination, to any person applying at any other time than at a regular examination who can show satisfactory reasons for failing to attend such examination, subject to such rules and regulations as may be prescribed by the superintendent of public instruction. Such permit shall not be granted more than once to any person. The written answers of all candidates for county certificates, after being duly examined by the county superintendent, shall be kept by him for the space of six months after such examination, and any candidate, thinking an injustice has been done him may by paying a fee of two dollars into the institute fund of the county and notifying both the county superintendent and the superintendent of public instruction of the same, have his papers re-examined by the superintendent of public instruction; the county superintendent shall on receipt of such notice from such complaining candidate transfer such papers to the superintendent of public instruction, who shall examine such answers, and, if such answers warrant it, shall instruct the county superintendent to issue to such candidate a county certificate of the proper grade, and the county superintendent shall carry out such instructions.

§ 122, c. 62, 1890.  
24, c. 56, 1891.  
2. c. 54, 1895.

**§ 742. Qualifications of teachers. Contracts, when void.** No certificate or permit to teach shall be issued to any person under eighteen years of age and no first grade certificate shall be issued to any person under twenty years of age and who has not taught successfully twelve school months: and a third grade certificate shall not be issued more than twice to the same person. The certificate so issued by a county superintendent shall be valid only in the county where issued; provided, that a first grade certificate may be renewed once

without examination at the discretion of the county superintendent, upon payment of the proper fee for the institute fund as provided in the case of examination; provided, further, that a first grade certificate shall be valid in any county of the state when indorsed by the county superintendent of such county. No person shall be employed or permitted to teach in any of the public schools of the state except those in cities organized for school purposes under special laws, who is not the holder of a lawful certificate of qualification, or permit to teach; provided, further, that no certificate or permit to teach in the schools of the state shall be granted to any person not a citizen of the United States unless such person has resided in the United States for one year last prior to the time of such application for certificate or permit. Any contract made in violation of this section shall be void.

§ 743. **Fee for certificate.** Each applicant for a county certificate shall pay one dollar to the county superintendent, which shall be used by him in support of teachers' institutes in the county. § 123. c. 62, 1890.

§ 744. **Certificates, when revocable.** The county superintendent is authorized and required to revoke and annul at any time a certificate granted by him or his predecessor for any cause which would have authorized or required him to refuse to grant it if known at the time it was granted, and for incompetency, immorality, intemperance, cruelty, crime against the law of the state, refusal to perform his duty, or general neglect of the business of the school. The revocation of the certificate shall terminate the employment of such teacher in the school where he may be at the time employed, but such teacher must be paid up to the time of receiving notice of such revocation. The superintendent must immediately notify the clerk of the school district where such teacher is employed and he may notify the teacher through the clerk of such revocation, and must enter his action in such case in the books of record in his office. § 124. c. 62, 1890.

§ 745. **Proceedings to revoke. Teachers allowed defense.** In proceedings to revoke a certificate the county superintendent may act upon his personal knowledge or upon competent evidence obtained from others. In the latter case, action shall be taken only after a fair hearing, and the teacher must be notified of the charge and given an opportunity to make a defense at such time and place as may be stated in such notice. Upon his own knowledge the superintendent may act immediately without notice, after an opportunity has been afforded such teacher for personal explanation. When any certificate is revoked the teacher shall return it to the superintendent, but if such teacher refuses or neglects so to do the superintendent may issue notice of such revocation by publication in some newspaper printed in the county. § 125. c. 62, 1890.

#### ARTICLE 12.—DUTIES OF TEACHERS.

§ 746. **Give notice of opening and closing school.** Each teacher on commencing a term of school shall give written notice to the county superintendent of the time and place of beginning such school and the time when it will probably close. If such school is to be suspended for one week or more in such term, the teacher shall notify the county superintendent of such suspension. § 126. c. 62, 1890.

§ 747. **When teacher not entitled to compensation.** No teacher shall be entitled to or receive any compensation for the time § 127. c. 62, 1890.

he teaches in any public school without a certificate valid and in force for such time in the county where such school is taught, except that if a teacher's certificate shall expire by its own limitation within six weeks of the close of the term, such teacher may finish such term without re-examination or renewal of such certificate.

§ 128, c. 62, 1890.

**§ 748. Teacher's register, what to contain.** Each teacher shall keep a school register and at the close of each term make a report, containing the number of visits of the county superintendent, and such items and in such form as shall be required. Such report shall be made in duplicate, one copy of which shall be filed with the district clerk, and one copy sent to the county superintendent. No teacher shall be paid the last month's wages in any term until such report shall be filed with and be approved by the district clerk.

§ 129, c. 62, 1890.

**§ 749. School year and school week defined. Holidays.** The school year shall begin on the first day of January and close on the thirty-first day of December of each year. A school week shall consist of five days, and a school month of twenty days. No school shall be taught on a legal holiday nor on any Saturday. A legal holiday in term time falling upon a day which otherwise would be a school day shall be counted and the teacher shall be paid therefor, but no teacher shall be paid for Saturday, nor be permitted to teach on Saturday to make up for the loss of a day in the term.

§ 130, c. 62, 1890.  
§ 1, c. 56, 1893.

**§ 750. Branches to be taught in all schools.** Each teacher in the common schools shall teach pupils when they are sufficiently advanced to pursue the same, the following branches: Orthography, reading, spelling, writing, arithmetic, language lessons, English grammar, geography, United States history, civil government, physiology and hygiene, giving special instruction concerning the nature of alcoholic drinks, stimulants and narcotics, and their effect upon the human system, physiology and hygiene and the nature of alcoholic drinks, stimulants and narcotics, and their effect upon the human system shall be taught as thoroughly as any branch is taught, by the use of a text book to all pupils able to use a text book who have not thoroughly studied that branch and orally to all other pupils. When such oral instruction is given as herein required, a sufficient time, not less than fifteen minutes, shall be given to such oral instruction for at least four days in each school week. Each teacher in special school districts and in cities organized for school purposes under special law shall conform to and be governed by the provisions of this section.

§ 131, c. 62, 1890.  
am'd.

**§ 751. Teachers' institutes, how noticed. Penalty for failure to attend.** When a teachers' institute is appointed to be held in any county, it shall be the duty of the county superintendent to give written or printed notice thereof to each teacher in the public schools of the county, and as far as possible to all others not then engaged in teaching who are holders of teachers' certificates at least ten days before the opening of such institute of the time and place of holding it. Each teacher receiving such notice engaged in teaching a term of school, which includes the time of holding such institute, shall close school during such institute and attend the same and shall be paid by the school board of the district his regular wages as teacher for the time (not less than four days) he attended such institute, as certified by the county superintendent or conductor of the institute. No teacher failing to attend such institute shall receive any compensation for the time he may have taught during the session of the same. The county superintendent may revoke the certificate of any

teacher in his county for inexcusable neglect or refusal after due notice to attend a teachers' institute held for such county. The provisions of this section shall not apply to teachers in cities organized for school purposes under a special law.

§ 752. **Pupil may be suspended for cause.** A teacher may suspend from school for not more than five days any pupil for insubordination or habitual disobedience, or disorderly conduct. In such case the teacher shall give immediate notice to the parent or guardian of such pupil, also to some member of the district school board of such suspension and the reason therefor. § 132, c. 62, 1890.

§ 753. **Assignment of studies to pupils.** It shall be the duty of the teacher to assign to each pupil such studies as he is qualified to pursue, and to place him in the proper class in any studies subject to the provisions in section 750; provided, that in a graded school under the charge of a principal or local superintendent, such principal or superintendent shall perform this duty. In case any parent or guardian is dissatisfied with such assignment or classification, the matter shall be referred to and decided by the county superintendent. § 133, c. 62, 1890.

§ 754. **Bible not sectarian book, reading optional with pupil.** The Bible shall not be deemed a sectarian book. It shall not be excluded from any public school. It may at the option of the teacher be read in school without sectarian comment, not to exceed ten minutes daily. No pupil shall be required to read it nor be present in the school room during the reading thereof contrary to the wishes of his parents or guardian or other person having him in charge. Moral instruction tending to impress upon the minds of pupils the importance of truthfulness, temperance, purity, public spirit, patriotism, and respect for honest labor, obedience to parents and due deference for old age, shall be given by each teacher in the public schools. § 134, c. 62, 1890.

ARTICLE 13. — INSTITUTES, ASSOCIATIONS AND READING CIRCLE.

§ 755. **Teachers' institutes. Apportionment of funds.** All money received by the county superintendent from examination fees shall constitute an institute fund for the county and shall be used by him to aid in the support of teachers' institutes to be held within and for the county, and to pay necessary expenses incurred therein. The county superintendent shall, at the end of each year, submit a full and accurate statement of the receipts and expenditures of these funds, verified by his oath, to the superintendent of public instruction; provided, that the several persons designated as herein provided, to act as conductors of teachers' institutes shall, at the close of each series of institutes, certify to the superintendent of public instruction an itemized statement of all actual and necessary expenses incurred by such conductor in the discharge of his duties as such, and such superintendent shall apportion such total expense among the several counties in which such conductor was assigned to conduct the institute, in proportion to the average attendance at such institute, but by such apportionment no county shall be proportioned a greater amount than the amount of the county institute fund on hand. The county superintendent shall present a bill to the county auditor for the amount of such expense apportioned to his county, and the

auditor shall issue a warrant therefor as provided by law. All additional compensation and other incidental expenses of such county institute, except as provided by the state appropriation, shall be paid out of the county institute fund.

136, c. 62, 1890.  
26, c. 56, 1891.

**§ 756. Appropriation for institute fund. Designation of conductors.** There is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of fifty dollars each year to each organized county in the state in which there are ten or more resident teachers, which shall be designated as the state institute fund and which shall be used exclusively in employing persons of learning, ability and experience as conductors of teachers' institutes, and the further sum of ten cents a mile for the distance actually and necessarily traveled by a lecturer for such institute. The superintendent of public instruction after consultation with the county superintendents as to the special needs and wants of their respective counties, shall appoint the time, place and duration of these institutes and shall designate the persons to act as conductors of and lecturers at such institutes, as in his judgment the needs of the various counties demand.

137, c. 62, 1890.  
27, c. 56, 1891.  
1, c. 57, 1893.

**§ 757. Institute funds, how paid out.** It shall be the duty of the county superintendent in all cases to consult with the superintendent of public instruction in reference to the management of such institute, and as far as practicable, to carry out the suggestions of such superintendent as to modes of instruction. No salary shall be paid to any conductor of any institute not previously appointed or employed as herein provided. The money hereby appropriated from the state treasury for the support of teachers' institutes shall be paid to the persons to whom it is due by warrant of the state auditor upon the state treasurer, which shall be issued upon the presentation of an account in due form receipted by the person to whom due and approved by the superintendent of public instruction; provided, that no county shall receive more than ten dollars from such appropriation for the payment of conductor's salary for each day its institute is in session.

§ 138, c. 62, 1890.

**§ 758. County commissioners may aid institutes.** The money assigned for any particular institute may be added to any fund furnished for the purpose by any county, and the institute extended as long as the entire fund will allow. If a sufficient county fund is not otherwise provided, the board of county commissioners may appropriate not more than fifty dollars in any county each year in aid of institutes. The superintendent of public instruction may require a statement of the amount of funds the county has on hand for this purpose at any time.

#### ARTICLE 14. — COMPULSORY ATTENDANCE.

140, c. 62, 1890.  
28, c. 56, 1891.

**§ 759. School age. Who exempt from compulsory attendance.** Every parent, guardian or other person having control of any child between eight and fourteen years of age, shall be required to send such child to a public school in the district, city or village in which he resides at least twelve weeks in each school year, six weeks of which shall be consecutive; and every parent, guardian or other person, having control of any deaf child or youth between seven and twenty-one years of age, shall be required to send such child to the school for the deaf at the city of Devils Lake, for at least eight

months in each school year; provided, that such parent, guardian or other person having control of any child shall be excused from such duty by the school board of the district or the board of education of the city, or village, whenever it shall be shown to their satisfaction, subject to appeal as provided by law, that one of the following reasons therefor exists:

1. That such child is taught for the same length of time in a private school, approved by such board; but no school shall be approved by such board unless the branches usually taught in the public schools are taught in such school.

2. That such child has already acquired the branches of learning taught in the public schools.

3. That such child is in such a physical or mental condition (as declared by the county physician if required by the board), as to render such attendance inexpedient or impracticable. If no school is taught the requisite length of time within two and one-half miles of the residence of such child by the nearest route, such attendance will not be enforced but this provision shall not apply to deaf children in the state. The common schools provided for in this chapter shall be at all times equally free, open and accessible to all children over six and under twenty years of age, residents of the school districts where they are held, or entitled to attend school under any special provisions of this chapter, subject to the regulations herein made and to such regulations as the several school boards and boards of education may prescribe equitably and justly and not in conflict with the provisions of law.

**§ 760. Penalty.** Any such parent, guardian or other person failing to comply with the requirements of the foregoing section, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be fined in a sum not less than five nor more than twenty dollars for the first offense and not less than ten dollars nor more than fifty dollars for the second and every subsequent offense with costs in each case. § 141, c. 62, 1890.

**§ 761. Prosecution for neglecting this duty.** It shall be the duty of the president of the board of education of any city, town or village, or the president of the school board of any district, to inquire into all cases of neglect of the duty prescribed in this article and ascertain from the person neglecting to perform such duty, the reason therefor, if any, and shall forthwith proceed to secure the prosecution of any offense occurring under this article, and any such president neglecting to secure such prosecution for such offense within fifteen days after a written notice has been served by any taxpayer in such city, town, village or district, unless such person so complained of shall be excused by the board of education or school board for one of the reasons hereinbefore stated, he shall be deemed guilty of misdemeanor, and upon conviction shall be fined in a sum not less than five nor more than twenty dollars. § 142, c. 62, 1890.

**§ 762. Child labor prohibited during school hours.** No child between eight and fourteen years of age shall be employed in any mine, factory or workshop or mercantile establishment, or, except by his parents or guardian, in any other manner, during the hours when the public schools in the city, village or district are in session, unless the person employing him shall first procure a certificate from the superintendent of schools of the city or village, if one is employed, otherwise from the clerk of the school board or board of edu- §§ 143, c. 62, 1890.  
29, c. 56, 1891.

cation, stating that such child has attended school for the period of twelve weeks during the year, as required by law, or has been excused from attendance as provided in section 759; and it shall be the duty of such superintendent or clerk to furnish such certificate upon application of the parent, guardian or other persons having control of such child, entitled to the same.

§ 144, c. 62, 1890.  
§ 30, c. 56, 1891.

**§ 763. Penalty for violation.** Each owner, superintendent or overseer of any mine, factory, workshop or mercantile establishment, and any other person who shall employ any child between eight and fourteen years of age contrary to the provisions of this article, is guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense in a sum not less than twenty nor more than fifty dollars and costs. Each person authorized to sign a certificate as prescribed in the preceding section, who certifies to any materially false statement therein, shall be fined not less than twenty nor more than fifty dollars and costs.

§ 145, c. 62, 1890.

**§ 764. Prosecutions, how brought.** Prosecutions under this article shall be brought in the name of the state of North Dakota before any court of competent jurisdiction, and the fines collected shall be paid over to the county treasurer and by him credited to the general school fund of the state.

ARTICLE 15. — FINES, FORFEITURES AND PENALTIES.

§ 146, c. 62, 1890.

**§ 765. Penalty for neglect of duty by school director, treasurer or clerk.** Each person duly elected to the office of director, treasurer or clerk of any district, who, having entered upon the duties of his office, shall neglect or refuse to perform any duties required of him by the provisions of this chapter shall upon conviction be fined in the sum of ten dollars, and his office shall be deemed vacant.

§ 147, c. 62, 1890.

**§ 766. Penalty for false election returns.** Any judge or clerk of election, school district clerk or county auditor who willfully violates the provisions of this chapter in relation to elections or who willfully makes a false return shall upon conviction be deemed guilty of a felony.

§ 148, c. 62, 1890.  
§ 31, c. 56, 1891.

**§ 767. Speculation in office prohibited.** No school officer shall personally engage in the purchase of any school bonds or warrants, nor shall any such officer be personally interested in any contract requiring the expenditure of school funds, except for the purchase of fuel and such supplies as are in daily use, but not including furniture, or the expenditure of funds appropriated by the state, county, school corporation or otherwise for any school purpose connected with his office. Any violation of this section shall be a misdemeanor.

§ 149, c. 62, 1890.

**§ 768. Penalty for unlawful drawing of school money.** Any person who draws money from the county treasury, who is not at the time a duly qualified treasurer of the school corporation for which he draws the money and authorized to act as such, shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars.

§ 150, c. 62, 1890.

**§ 769. Use of school funds. When embezzlement.** Each treasurer who shall loan any portion of the money in his hands belonging to any school district, whether for consideration or not, or who shall expend any portion thereof for his own or any other person's



private use, is guilty of embezzlement, and no such treasurer shall pay over or deliver the school money in his hands to any officer or person or to any committee to be expended by him or them; but all public funds shall be paid out only by the proper treasurer as hereinbefore provided.

**§ 770. Action to recover money when treasurer fails to pay over.** If any person shall refuse or neglect to pay over any money in his hands as treasurer of a school district to his successor in office his successor must, without delay, bring action upon the official bond of such treasurer for the recovery of such money. § 151, c. 62, 1890.

**§ 771. Penalty, when indorsement of unpaid warrants is not made.** Any violation by a district treasurer of the provisions of this chapter requiring indorsement of warrants not paid for want of funds, and the payment thereof in the order of presentation and indorsement, is a misdemeanor punishable by a fine not exceeding one hundred dollars. § 152, c. 62, 1890.

**§ 772. Penalty for false reports.** Each clerk or treasurer of a district who willfully signs or transmits a false report to the county superintendent or willfully signs, issues or publishes a false statement of facts purporting or appearing to be based upon the books, accounts or records or of the affairs, resources and credit of the district shall upon conviction be punished by a fine not exceeding fifty dollars or by imprisonment in the county jail not exceeding fifteen days. § 153, c. 62, 1890.

**§ 773. Penalty for willful disturbance of public school.** Each person, whether pupil or not, who willfully molests or disturbs a public school when in session or who willfully interferes with or interrupts the proper order or management of a public school by act of violence, boisterous conduct or threatening language, so as to prevent the teacher or any pupil from performing his duty, or who shall in the presence of the school or school children upbraid, insult or threaten the teacher shall upon conviction thereof be punished by a fine not exceeding twenty-five dollars or by imprisonment in the county jail for a period not exceeding ten days, or by both. § 155, c. 62, 1890.

**§ 774. Proposals for contracts.** No contract, except for teachers' or janitors' wages, involving the expenditure of school funds or money appropriated for any purpose relating to the educational system of this state or any county, district or school corporation therein, when the amount exceeds one hundred dollars, shall be let until proposals are advertised for, and after such advertisement, only to the lowest responsible bidder. Any violation of this section shall be a misdemeanor. § 156, c. 62, 1890.

#### ARTICLE 16. — BONDS.

**§ 775. School bonds, how issued.** Whenever a duly constituted school district in any organized county in the state at any regular or special meeting held for that purpose shall determine, by a majority vote of all the qualified voters of such school district present at such meeting and voting, to issue school district bonds for the purpose of building and furnishing a school house and purchasing grounds on which to locate the same, or to fund any outstanding indebtedness, the district school board may lawfully issue such bonds in accordance with the provisions of this article. § 159, c. 62, 1890.

§ 160, c. 62, 1890.

**§ 776. Notice of election to vote bonds.** Before the question of issuing bonds shall be submitted to a vote of the school district, notices shall be posted in at least three public and conspicuous places in such district stating the time and place of such meeting, the amount of bonds proposed to be issued, and the time in which they shall be made payable. Such notices shall be posted at least twenty days before the meeting, and the voting shall be done by means of written or printed ballots, and all ballots deposited in favor of issuing bonds shall have thereon the words "for issuing bonds," and those opposed thereto shall have thereon the words "against issuing bonds" and if a majority of all the votes cast shall be in favor of issuing bonds the school board, through its proper officers shall forthwith issue bonds in accordance with such vote; but if a majority of all votes cast are against issuing bonds then no further action can be had and the question shall not be again submitted to a vote for one year thereafter, except for a different amount; provided, that the question of issuing bonds shall not be submitted to a vote of the district and no meeting shall be called for that purpose until the district school board shall have been petitioned in writing by at least one-third of the voters of the district.

§ 161, c. 62, 1890.

**§ 777. Bonds, denomination of. Interest. Limit of issue.** The denomination of the bonds which may be issued under the provisions of this article shall be fifty dollars or some multiple of fifty not exceeding five hundred dollars and shall bear interest at the rate of not exceeding seven per cent per annum, payable semi-annually in accordance with interest coupons which shall be attached to such bonds; and no greater amount than one thousand dollars can be issued for any one school house, except in towns and villages of more than three hundred inhabitants, and in such districts the amount shall not exceed four per cent of its assessed valuation, and may be made payable in not less than ten nor more than twenty years from their date.

§ 162, c. 62, 1890.  
am'd.

**§ 778. Bonds, record of to be kept.** Whenever any bonds are issued under the provisions of this chapter they shall be lithographed or printed on bond paper and shall state upon their face the date of their issue, the amount of the bonds, to whom and for what purpose issued, also the time and place of payment and the rate of interest to be paid. They shall have printed upon the margin the words "Authorized by article 16 of chapter 9 of the political code of North Dakota of 1895." Immediately after the issuing of school bonds pursuant to this chapter the clerk of the school district so issuing its bonds shall file with the county auditor of the county in which such district is situated, certified copies of all the proceedings had in such district relative to the issuing of such bonds and also a statement of the amount of the indebtedness of such school district; and before any of the bonds are disposed of they shall be presented to the county auditor of the county in which the school district issuing the same is situated. He shall carefully examine the records of the proceedings of such school district upon the question of issuing such bonds as the same are filed with him as hereinbefore directed, and shall satisfy himself by the evidence thus furnished whether or not all the laws of the state relative to the issuing of such bonds have been complied with. If satisfied that they have been and that the bonds in question have been legally issued, he shall in a book kept for such purpose preserve a register of each bond showing in separate columns the

name of the school district issuing the bonds, the number of such bonds, the denomination thereof, the date of their issue, the date when they will mature, the names of the school officers executing the same and such other facts as may be pertinent, and he shall then indorse on each of such bonds the following certificate:

State of North Dakota, }  
County of..... } ss.

I, ....., county auditor, do hereby certify that the within bond is issued pursuant to law and is within the debt limit prescribed by the constitution of the state of North Dakota, and in accordance with the vote of ..... school district, ..... at a ..... (regular or special) meeting held on the ..... day of ....., A. D. 189.., to issue bonds to the amount of ..... dollars, and is a legal and valid debt of such school district; that such bonds are duly registered in this office and that such school district is legally organized and the signatures affixed to such bonds are the genuine signatures of the proper officers of such school district.

The blanks shall be filled according to the facts and the certificate officially signed by the county auditor and attested by his official seal. Such bonds shall be signed by the president and clerk of the school board and shall be registered in a book to be kept by the clerk for that purpose in which shall be entered the number, date and name of the person to whom issued and the date when the same will become due.

§ 779. **Sinking fund and interest tax.** In addition to the amount that may already be assessed under existing laws, there shall be levied upon the taxable property of the school districts so issuing bonds at or before their issuance and collected as other taxes are collected, a sum sufficient, not exceeding five mills on the dollar of assessed valuation of such districts, to pay interest upon such bonded indebtedness, and after five years in like manner a further tax not exceeding two mills on the dollar for a sinking fund to be used in payment of such bonds when they become due and for no other purpose, except that whenever there are sufficient funds on hand belonging to such sinking fund the school board may, in its discretion, purchase any of its outstanding bonds at their market value and pay for the same out of such sinking fund. § 163. c. 62, 1890.

§ 780. **Bonds, how negotiated.** When any bonds shall be issued under the provisions of this article, the school district treasurer shall have authority to negotiate and sell such bonds for not less than par, and the proceeds shall be used exclusively for the purpose of building and furnishing a school house and in payment for a site for the same, and for the necessary outbuildings. § 164. c. 62, 1890.

§ 781. **County auditor may levy tax to pay bonds, when.** When any school board neglects or refuses to levy a tax in accordance with law to meet outstanding bonds or the interest thereon, the county auditor shall have power to levy such tax and when collected to apply the proceeds to the payment of such coupons and bonds. § 165. c. 62, 1890. am'd.

§ 782. **Canceled bonds, record of.** When the bonds of any school district shall have been paid by the school board they shall be canceled by writing or printing in red ink the words "canceled and paid" across each bond and coupon and the date of payment and amount paid shall be entered in the clerk's register against the proper § 166. c. 62, 1890. am'd.

number of the bonds, and the bonds so canceled shall be filed in the office of the district treasurer until all the outstanding bonds are paid, when they shall be destroyed in the presence of the full board.

§ 167, c. 62, 1890.  
§ 32, c. 56, 1891.

**§ 783. Proposals for building school houses.** When any school house is built with funds provided for in the manner herein authorized, the school board shall advertise at least thirty days in some newspaper printed in the county, or by posting notices for the same length of time in at least three of the most public and conspicuous places, if no newspaper is published in the county, for sealed proposals for building and furnishing such school house in accordance with plans and specifications furnished by the school board, reserving the right to reject any and all bids, and if any of the proposals shall be reasonable and satisfactory such board shall award the contract to the lowest responsible bidder and shall require of such contractor a bond in double the amount of the contract, conditioned that he will properly account for all money and property of the school district that may come into his hands and that he will perform the conditions of his contract in a faithful manner and in accordance with its provisions; and in case all the proposals are rejected, such board shall advertise anew in the same manner as before until a reasonable bid shall be submitted.

§ 68, c. 62, 1890.  
§ 32, c. 56, 1891.

**§ 784. Provisions of this article, how applicable.** The provisions of this article shall be applicable to and authorize the issuance of bonds by such school districts as have already built school houses and issued orders or warrants therefor and any such school district may vote to bond the indebtedness incurred by reason of building and furnishing a school house and purchasing a site for the same and bonds may be issued in the same manner as hereinbefore provided for building and furnishing school houses.

ARTICLE 17. — SPECIAL DISTRICTS.

§ 169, c. 62, 1890.  
§ 33, c. 56, 1891.

**§ 785. Cities governed by the provisions of this article.** All cities and incorporated towns and villages which have heretofore been organized under the general school laws and which are provided with a board of education shall be governed by the provisions of this article. Any city or incorporated town or village having a population of over three hundred inhabitants may be constituted a special school district in the manner hereinafter prescribed, and shall then be governed by the provisions of this article; provided, that any city heretofore organized for school purposes under a special act may adopt the provisions of this article by a majority vote of the voters therein, in the same manner as is provided for the organization of a new corporation under the provisions of this article.

§ 170, c. 62, 1890.

**§ 786. Adjacent territory, how attached for school purposes.** When any city, town or village has been organized for school purposes and provided with a board of education under any general school law, or a special act, or under the provisions of this article, territory outside the limits thereof but adjacent thereto may be attached to such city, town or village for school purposes by the board of education thereof upon application in writing signed by a majority of the voters of such adjacent territory; and upon such application being made, if such board shall deem it proper and to the best interests of the schools of such corporation and of the territory to be attached, an order shall be issued by such board attaching such adja-

cent territory to such corporation for school purposes, and the same shall be entered upon the records of the board. Such territory shall from the date of such order be and compose a part of such corporation for school purposes only; such adjacent territory shall be attached for voting purposes to such corporation, or if the school election is held in wards, to the ward or wards or election precinct or precincts to which it lies adjacent; and the voters thereof shall vote only for school offices and upon school questions.

**§ 787. Name of body corporate.** Every such district shall be a body corporate for school purposes by the name of "The board of education of the city, town or village (as the case may be) of . . . . . (here insert the corporate name of the city, town or village) of the state of North Dakota," and shall possess all the powers and duties usual to corporations for public purposes or conferred upon it by this article or which may hereafter be conferred upon it by law; and in such name it may sue and be sued, contract and be contracted with, and hold and convey such real and personal property as shall come into its possession by will or otherwise; and it shall procure and keep a corporate seal by which its official acts may be attested. § 171. c. 62, 1890.

**§ 788. Conveyance of school property, how executed.** Any such city or incorporated town or village is authorized and required, upon the request of the board of education, to convey to such board of education all property within the limits of any such corporation heretofore purchased by it for school purposes and now held and used for such purposes, the title to which is vested in any such civil corporation. All conveyances for such property shall be signed by the mayor or president of the board of trustees and attested by the clerk of such corporation, and shall have the seal of the corporation affixed thereto and be acknowledged by the mayor or president in the same manner as other conveyances of real estate. § 172. c. 62, 1890.

**§ 789. Special school districts, how organized.** When a petition signed by one-third of the voters of a city or incorporated town or village entitled to vote at such election is presented to the council or board of trustees thereof asking that such city, town or village be organized as a special school district, such council or board of trustees shall order an election for such purpose, notice of which shall be given and the election conducted and the returns made in the manner provided by law for the annual election of municipal officers of such corporation; and the voters thereof shall vote for or against organization as a special school district at such election. § 173. c. 62, 1890.

**§ 790. Election of board of education.** If a majority of the votes cast at such election is for organization as a special school district another election shall be called in the same manner as is prescribed in the foregoing section, at which the voters of such city, town or village shall elect five members of the board of education, two of whom shall serve until the first annual election, two until the second annual election and one until the third annual election thereafter and until their successors are elected and qualified; and their respective terms shall be determined by lot. § 174. c. 62, 1890.

**§ 791. Terms of office. Quorum.** The board of education of each special district shall consist of five members who shall be elected by the legal voters thereof and who shall hold their office for the term of three years and until their successors are elected and qualified, except as provided for first elections under this article, and § 175. c. 62, 1890.

three members shall constitute a quorum for the transaction of business at any legal meeting.

§ 176, c. 62, 1890.

**§ 792. Members not to be interested in school contracts.** The members of such board shall receive no compensation, and shall not be interested, directly or indirectly, in any contract for making any improvements or repairs or for erecting any building or for furnishing any material or supplies for their district.

§ 177, c. 62, 1890.

**§ 793. Annual and special meetings of board.** The annual meeting of such board of education shall be held on the second Tuesday in July following the annual election, at which time the newly elected members shall assume the duties of their office. Each board shall meet for the transaction of business as often as once in each calendar month thereafter and may adjourn for a shorter time. Special meetings may be called by the president or in his absence by any two members of the board by giving a personal notice to each member of the board or by causing a written or printed notice to be left at his last place of residence at least forty-eight hours before the time of such meeting.

§ 178, c. 62, 1890.

**§ 794. Organization of board.** At the annual meeting on the second Tuesday in July of each year such board of education shall organize by electing a president from among its members who shall serve for one year; and they shall also elect a clerk, not one of their own number, who shall hold his office during the pleasure of the board and receive such compensation for his services as shall be fixed by the board. In the absence of the president at any meeting, a president pro tempore may be elected by the board.

§ 179, c. 62, 1890.

**§ 795. Duties of president.** The president shall preside at all meetings of the board, appoint all committees whose appointment is not otherwise provided for and sign all warrants ordered by the board to be drawn upon the treasurer for school moneys and perform other acts required by law.

§ 180, c. 62, 1890.

**§ 796. Duties of clerk. Records.** The clerk shall keep a true record of all the proceedings of the board, take charge of its books and documents, countersign all warrants for school moneys drawn upon the treasurer by order of the board and affix the corporate seal thereto and perform such other duties as the board may require. The records, books, vouchers and papers of the board shall be open to examination by any taxpayer of the district. Such record or a transcript thereof certified by the clerk and attested by the seal of the board, shall be received in all courts as prima facie evidence of the facts therein set forth.

§ 181, c. 62, 1890.  
am'd.

**§ 797. Powers and duties of board.** Each board of education shall have power and it shall be its duty:

1. To establish a system of graded common schools, which shall be free to all children of legal school age residing within such special district, and shall be kept open not less than six nor more than ten months in any year.

2. To establish and maintain such schools in its city, town or village as it shall deem requisite or expedient and to change or discontinue the same.

3. To establish and maintain a high school, whenever in its opinion the educational interests of the corporation demand the same, in which such courses of study shall be pursued as shall be

prescribed or approved by the superintendent of public instruction, together with such additional courses as such board of education may thereafter deem advisable to establish.

4. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses, and to fence and otherwise improve them as it deems proper.

5. Upon such lots and upon such sites as may be owned by such special district to build, alter, enlarge, improve and repair school houses, outhouses and appurtenances as it may deem advisable.

6. To purchase, sell, exchange, improve and repair school apparatus, text-books for the use of the pupils, furniture and appendages, and to provide fuel for the schools.

7. To have the custody of all school property of every kind and to see that the ordinances and by-laws of the city or village in relation thereto are observed.

8. To contract with, employ and pay all teachers in such schools and to dismiss and remove for cause any teacher whenever the interests of the school may require it; but any such teacher shall be required to hold a certificate to teach, issued by the county superintendent or the superintendent of public instruction, and if any such teacher holds only a county certificate the board may impose such further requirements as the best interests of the several grades may require. No person who is a relative of any member of the board shall be employed as teacher without the concurrence of the entire board.

9. To employ, should it deem it expedient, a competent and discreet person as superintendent of schools and to fix and pay a proper compensation therefor, and such superintendent may be required to act as principal or teacher in such schools.

10. To defray the necessary and contingent expenses of the board, including the compensation of its clerk.

11. To adopt, alter and repeal, whenever it may deem expedient, rules and regulations for organization, grading, government and instruction and the reception of pupils, their suspension and expulsion and their transfer from one school to another. But no pupil shall be suspended or expelled except for insubordination, habitual disobedience or disorderly conduct; such suspension shall not be for a longer period than ten days, nor such expulsion beyond the end of the current term of school.

12. Each member shall visit, at least twice in each year, all the public schools in the city or village.

13. To make a report on January first, or as soon thereafter as practicable, of the progress, prosperity and condition, financial as well as educational, of all the schools under its charge, a copy of which, together with such further information as shall be required by the superintendent of public instruction, shall be forwarded to the county superintendent the same as reports are made by other school districts; and such report or such portion thereof as the board of education shall consider advantageous to the public, shall be published in a newspaper in the city or village, and in cities and villages of over eight hundred inhabitants, it may be published in pamphlet form.

14. To admit children of persons not living in such special district into the schools of such district, and to fix and collect the tuition therefor, if in its judgment the best interests of the school will permit.

15. To cause an enumeration of the children of school age within such special district, including those residing in any territory thereto attached for school purposes, to be made annually, as provided for other school districts, and return the same to the county superintendent.

§ 182, c. 62, 1890. **§ 798. Treasurer, custodian of school moneys.** All moneys from whatever source, which the board of education of any special district shall by law be authorized to receive, shall be paid over to the treasurer of such board and he shall charge the same to the proper fund.

§ 183, c. 62, 1890. **§ 799. Schools under supervision of whom.** The schools of each special district shall be under the immediate supervision of the board of education or the school superintendent appointed by such board, subject to such general directions and supervision by the county superintendent as are provided for in this chapter.

§ 184, c. 62, 1890. **§ 800. Taxable property.** The taxable property of the whole school corporation including the territory attached for school purposes, shall be subject to taxation. All taxes collected for the benefit of the school shall be paid in money, and shall be placed in the hands of the treasurer, subject to the order of the board of education.

§ 185, c. 62, 1890. **§ 801. Annual school tax.** The board of education shall on or before the twentieth day of July of each year levy a tax for the support of the schools of the corporation, including any expenditures allowed by law, for the fiscal year next ensuing, not exceeding in any one year thirty mills on the dollar on all the real and personal property within the district which is taxable according to the laws of this state, the amount of which levy the clerk of the board shall certify to the county auditor, who is authorized and required to place the same on the tax roll of such county to be collected by the county treasurer as other taxes and paid over by him to the treasurer of the board of education, of whom he shall take a receipt in duplicate, one of which he shall file in his office and the other he shall forthwith transmit to the clerk of the board of education.

§ 186, c. 62, 1890. **§ 802. Expenditures. Contracts.** No expenditures involving an amount greater than one hundred dollars shall be made except in accordance with the provisions of a written contract, and no contract involving an expenditure of more than five hundred dollars for the purpose of erecting any public buildings or making any improvements shall be made except upon sealed proposals and to the lowest responsible bidder, after public notice for ten days previous to receiving such bids.

§ 187, c. 62, 1890. **§ 803. Treasurer.** The treasurer of any city, town or village comprising a special district shall be treasurer of the board of education thereof.

§ 188, c. 62, 1890. **§ 804. Treasurer, duties of.** The treasurer of each board of education shall keep a true account of the receipts and expenditures of the various funds separately, and shall prepare and submit in writing a quarterly report of the state of the finances of the district; and shall, when required, produce at any meeting of such board or any committee appointed for the purpose of examining his accounts, all books and papers pertaining to his office. He shall safely keep in his possession or under his control all school moneys coming into his hands, and shall pay out such moneys only upon a warrant signed by the president, countersigned by the clerk and attested by the corporate seal of the board.



**§ 805. Treasurer's bond.** The treasurer of the board shall execute a bond to such board, with sufficient sureties to be approved by the board, in such sum and as such board may from time to time require, as near as can be ascertained in double the amount of the moneys likely to come into his hands, conditioned for the faithful discharge of his duties as treasurer; which bond shall be in addition to his bond to the city, town or village. In case of the failure of the city, town or village treasurer to give such bond within ten days after being required so to do by such board of education, such treasurer's office shall become vacant, and the council or board of trustees of such city, town or village shall appoint another person in his place, who shall give such additional bond. § 189, c. 62, 1890.

**§ 806. Board assumes control after equalization of debts and property.** When any board of education shall be organized under the provisions of this article, it shall, after the equalization hereinafter provided for, assume control of the schools of the city, town or village and shall be entitled to the possession of all property of the former district or districts or parts thereof lying within such city, town or village, for the use of schools. Such board shall also be entitled to its due proportion of all moneys on hand and taxes already levied but not collected, and shall be liable for a proper amount of the debts and liabilities of such former district, to be determined in the manner provided in this chapter for the equalization, determination and division of debts, property and assets of school districts consolidated or divided. § 190, c. 62, 1890.

**§ 807. Special district may become part of general district, when.** Any special district organized under the general school laws and provided with a board of education may become a part of the school district in which it is located, whenever it is so decided by a majority vote of the school electors of the city, town or village and of such school district voting at an election called for that purpose. An election for such purpose shall be ordered and proper notice thereof given by the board of education and the school board of such district in the same manner as is required for the election of school officers in such district, when petitioned by one-third of the voters resident in such district, and when so united the determination and division of the debts, property and assets shall be made by arbitration as provided in this chapter for school districts consolidated or divided. Villages not incorporated but heretofore organized under the general school laws and provided with a board of education shall become a part of the school district in which they are located and the determination and division of the property, debts and assets shall be made by arbitration as aforesaid. § 191, c. 62, 1890.

**§ 808. Election of boards of education in special districts.** On the third Tuesday in June each year an election shall be held in each special district at which such members of the board of education shall be elected at large as shall be necessary to fill all vacancies therein caused by expiration of terms of office or otherwise, and each member elected shall serve for a term of three years commencing on the second Tuesday in July following his election and until his successor is elected and qualified, except when elected to serve an unexpired term. The polls shall be open at 9 o'clock A. M. and kept open until 4 o'clock P. M. on the day of such election. § 192, c. 62, 1890.  
§ 34, c. 56, 1891.

**§ 809. Notice of election, contents of.** Such election shall be called by the board of education of such special district, which shall § 194, c. 62, 1890.

cause notice thereof to be posted or published as required by law for the annual election of civil officers in the city, town or village comprising such special district; such notice shall be signed by the clerk, or, in his absence, by the president of the board of education of such district, and shall state the time and place of holding such election and what officers are to be elected and their terms.

§ 194. c. 62, 1890.  
am'd.

**§ 810. Notice of election, form of.** Such notice shall be in substantially the following form:

Notice is hereby given, that on Tuesday the ..... day of June A. D. ...., an annual election will be held at ..... (here insert polling place) for the purpose of electing the following members of the board of education ..... (here insert terms for which they are to be elected), for the city, town or village of ..... (here insert name) and the polls will be open at nine o'clock A. M. and closed at four o'clock P. M. of that day.

By order of the board of education.

Signed .....,

Clerk.

§ 195. c. 62, 1890.

**§ 811. Election precincts and officers of election.** At least fifteen days prior to such election the board of education of each special district shall designate one polling place and appoint two persons to act as judges and two persons to act as clerks. Before opening the polls each of such judges and clerks shall take an oath that he will perform his duties as judge or clerk (as the case may be) according to law and to the best of his ability, which oath may be administered by any officer authorized to administer oaths or by either of said judges or clerks to the others.

§ 196. c. 62, 1890.  
am'd.

**§ 812. Canvass of returns.** Such election shall be conducted and the votes canvassed in the manner provided by law for elections of county officers, and returns shall be made showing the number of votes cast for each person for any office, which shall be signed by the judges and clerks of election, and the person receiving the highest number of votes for each office in the district shall be declared elected, and the returns shall be filed with the clerk of the board of education within two days thereafter.

§ 197. c. 62, 1890.

**§ 813. Certificates of election.** The clerk of the board shall give to each person elected at such election a certificate stating that he was duly elected as a member of the board of education and the time he is to take the oath and enter upon the duties of his office. Such clerk shall also certify as soon as possible to the county superintendent of schools the persons so elected and their terms.

§ 198. c. 62, 1890.

**§ 814. Vacancies, how filled.** The board of education of each city, town and village shall have power to appoint a person to fill any vacancy which may occur in the board; and such appointee shall hold his office until the next annual school election, at which time a person shall be elected to serve for the unexpired term; but if such vacancy shall occur within ten days before an annual election, such appointee shall hold office until the annual election in the following year. When any such appointment shall be made the clerk shall certify the same to the county superintendent.

§ 199. c. 62, 1890.  
am'd.

**§ 815. Oath of office.** Before entering upon the duties of his office each person elected or appointed as a member of the board of education, shall take the oath or affirmation prescribed in section 211 of the constitution, which oath shall be filed with the clerk of the board.

**§ 816. Bonds, how and when may be issued.** Whenever the taxes authorized by law shall not be sufficient or shall be deemed by the board of education to be burdensome, bonds may be issued and negotiated for the purpose of raising money to purchase a site or to erect suitable buildings thereon, or to fund any outstanding indebtedness of the school corporation; provided, that the issuance of such bonds shall first be authorized by the voters of such special district as hereinafter prescribed. Such bonds shall be signed by the president and clerk and attested by the corporate seal of the board, shall bear the date of their issue, and be payable in not less than five nor more than twenty years from their date, at such place as shall be designated upon their face; and such bonds shall be in denominations of not less than one hundred dollars, shall bear interest at not more than seven per cent per annum, payable semi-annually on the first day of January and July in each year, shall show upon their face that they are issued for school purposes, and shall be sold at not less than par. Each bond shall have indorsed thereon the certificate of the clerk of the board stating that such bond is issued pursuant to law and is within the debt limit prescribed by the constitution. § 200, c. 62, 1890.

**§ 817. Election for issuing bonds.** Before issuing any such bonds the board of education shall call an election for the purpose of submitting to the voters of the district the question of issuing such bonds, notice of which shall be given in the manner prescribed by law, for giving notice of the annual election for the several officers of the city, town or village comprising such special district, except that such notice shall be given twenty days before such election. Such election shall be conducted and the returns made in the manner provided for the annual election of members of the board of education, and may be held at the time of the annual school election or at any other time named in such notice. The notice of such election shall clearly state the amount of the bonds proposed to be issued, the time in which they shall be made payable, the purpose for which they are to be issued, and the time and place such election will be held. At such election the voters shall have written or printed on their ballots "for issuing bonds" or "against issuing bonds" and if a majority of the votes cast is for issuing bonds such bonds shall be issued and negotiated by such board of education, but if a majority thereof is against issuing bonds such bonds shall not be issued, nor shall the question be again submitted for one year thereafter except for a different amount and then only upon a written petition of a majority of the voters of the district. § 201, c. 62, 1890.

**§ 818. Bonds to specify what. Debt limit.** The bonds, the issuance of which is provided for in the foregoing section, shall specify the rate of interest and the time when the principal and interest shall be paid; and no district shall issue bonds in pursuance of this article in a sum greater than five per cent of its assessed valuation, including other debts. § 202, c. 62, 1890.

**§ 819. Levy for interest and sinking fund.** The board of education at the time of its annual tax levy for the support of schools shall also levy a sufficient amount to pay the interest as the same accrues on all bonds issued under provisions of this article, and also to create a sinking fund for the redemption of such bonds, which it shall levy and collect in addition to the rate per cent authorized by the provisions aforesaid for school purposes, and such amount of funds when paid into the treasury shall be and remain a special fund § 203, c. 62, 1890.

for such purpose only and shall not be appropriated in any other way except as hereinafter provided. At or before the issuance of any bonds as herein provided the board shall by resolution provide for such annual levy to pay the interest and to create such sinking fund, and such resolution shall remain in force until all such bonds and the interest thereon shall have been paid.

§ 204, c. 62, 1890. § **820. Investment of sinking fund.** All moneys raised for the purpose of creating a sinking fund for the final redemption of all bonds issued under this article, shall be invested annually by the board of education in the bonds of this state or of the United States, or the board may buy and cancel the bonds of the district.

§ 205, c. 62, 1890. § **821. Interest coupons.** When the interest coupons of the bonds hereinbefore authorized shall become due they shall be promptly paid, upon presentation, by the treasurer out of any moneys in his hands collected for that purpose, and he shall indorse in red ink upon the face of such coupons the word "paid" and the date of payment and sign the initials of his name.

§ 206, c. 62, 1890. § **822. Security for payment of bonds.** The school fund and property of such school corporation and territory attached for such purposes is hereby pledged to the payment of the interest and principal of the bonds mentioned in this article as the same may become due.

§ 207, c. 62, 1890. § **823. Bond register.** The clerk of the board of education shall register in a book provided for that purpose the bonds issued under this article and all warrants issued by the board, which register shall show the number, date and amount of such bonds and to whom payable.

§ 1, c. 59, 1891, am'd. § **824. Refunding bonds, issuance of.** The board of education of any special or independent school district shall have power, whenever two-thirds of the members of such board shall deem it necessary and for the best interests of such school district, to issue bonds for the purpose of refunding any outstanding bonds when the same become due. Such bonds shall not exceed in amount the face value of the bonds they are issued to replace, and shall not bear a higher rate of interest than seven per cent per annum, nor run for a longer period than twenty years.

§ 2, c. 59, 1891. § **825. Bonds may be exchanged.** Such refunding bonds may be exchanged at par for an equal amount of outstanding bonds or may be sold at not less than par value and the proceeds applied solely to the payment of the bonds to be refunded, except that any premium that may be received on the sale of such bonds shall be kept as a separate fund and used for the payment of the interest on such bonds.

§ 3, c. 59, 1891. § **826. Issue of bonds, how governed.** In the issuance of such refunding bonds the board of education shall be governed by the provisions of sections 818 to 823.

§ 4, c. 59, 1891. § **827. Surplus funds, how transferred.** Any moneys remaining in the treasury of such school districts, appropriated or held for the purpose of paying such bonds so refunded, may, at the discretion of the board of education at any time within six months after such refunded bonds have been taken up and canceled, be transferred to the building or contingent fund of such district.

## ARTICLE 18. — INDEPENDENT SCHOOL DISTRICTS.

§ 828. **Independent districts, how organized.** Any city heretofore organized for school purposes under a special law and provided with a board of education may become incorporated as an independent school district under the provisions of this article in the manner following. Whenever one-eighth of the legal voters of such city voting at the preceding municipal election shall petition the mayor and council thereof to submit the question as to whether such city shall establish an independent school district under this article to a vote of the electors in such city it shall be the duty of such mayor and council to submit such question accordingly and to appoint a time and place or places at which such vote may be taken and to designate the persons who shall act as judges at such election, but such question shall not be submitted oftener than once in two years. § 1, c. 64, 1890.

§ 829. **Notice of election.** The mayor of such city shall cause at least twenty days' notice of such election to be given by publishing a notice thereof in one or more newspapers within such city, but if no newspaper is published therein, then by posting at least five copies of such notice in each ward or voting precinct. § 2, c. 64, 1890.

§ 830. **Form of ballots. Returns.** The ballots to be used at such election shall be in the following form: "For establishing an independent school district" or "against establishing an independent school district." The judges of such election shall make returns thereof to the city council whose duty it shall be to canvass such returns and cause the result of such canvass to be entered upon the records of such city. If a majority of the votes cast at such election shall be for establishing an independent school district, such independent school district shall thenceforth be deemed to be organized under this article and the board of education then in office shall thereupon exercise the powers conferred upon like officers in this article until their successors are elected and qualified. § 3, c. 64, 1890.

§ 831. **Boundaries of independent districts.** All that portion included within the corporate limits of any city together with the additions that are now or may be hereafter attached to such city limits shall be constituted and established an independent school district to be designated as the "Independent School District of the City of . . . . . " and a board of education is hereby established for the same. § 4, c. 64, 1890.

§ 832. **Members of board, how elected. Quorum.** Such board shall consist of one member from each ward in the city, and when the city is divided into an even number of wards, then such city shall elect one member of such board at large. Such members shall hold their office for the term of two years and until their successors are elected and qualified. A majority of the members of such board shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn. The electors in each ward in such city shall elect one member of such board, and the electors of such city shall elect one member of the board at large. The wards having even numbers shall hold their election in each even numbered year and the wards having odd numbers shall hold their election in each odd numbered year. The member at large shall be elected biennially in the even numbered years. § 5, c. 64, 1890.

§ 6, c. 64, 1890. **§ 833. Date of election. Canvass of votes.** The election referred to in the foregoing section shall be held on the third Monday in April of each year, at the usual polling place for municipal elections in each ward. The mayor shall have authority and he is hereby empowered to appoint two judges and one clerk for such election, who shall open the polls at the hour of eleven o'clock in the forenoon and hold the same open until five o'clock in the afternoon of the same day. Such election shall be conducted in all respects and the polls closed and votes canvassed in the same manner as municipal elections, and the judges shall have the same power and authority in all respects as the judges of election for municipal officers, and after the votes are canvassed the judges shall make their returns to the city clerk or auditor, as the case may be, within twenty-four hours after the polls are closed, and the city council shall canvass such returns and declare the result within three days thereafter, which result shall be entered upon the records of the city, and it shall be the duty of the city clerk or auditor to issue certificates of election to the persons declared elected. The judges and clerks of election shall receive the same compensation for their services as at municipal elections for mayor and aldermen.

§ 7, c. 64, 1890. **§ 834. Vacancies, how filled.** If any vacancy occurs in the board for any cause, the remaining members thereof shall fill such vacancy by appointment until the next annual election, and at such election a new member shall be elected to fill the unexpired term.

§ 8, c. 64, 1890. **§ 835. Style and powers of board.** The board so elected shall be a body corporate in relation to all the powers and duties conferred upon it by this article, and shall be styled "The Board of Education of the Independent School District of the City of . . . . . (here insert the name of the city)" and as such shall have power to sue and be sued, contract and be contracted with, and shall possess all the powers usual and incident to such bodies corporate, and as shall be herein given, and shall procure and keep a common seal. At each annual meeting of the board the members thereof shall elect one of their number president of the board, and when he is absent a president pro tempore shall be appointed who shall preside during such absence. The members so elected shall each qualify by taking the prescribed oath of office within ten days after receiving their certificate of election, and shall assume the duties of the office at the annual meeting of the board held on the first Monday in May of each year.

§ 9, c. 64, 1890. **§ 836. Responsibility of board.** The members of the board shall receive no compensation, nor be interested directly or indirectly in any contract for building or making any improvements or repairs provided by this chapter. They shall have the care and custody of all public property in such district pertaining to school purposes and the general management and control of all school matters.

§ 10, c. 64, 1890. **§ 837. Meetings of board.** The regular meetings of the board shall be held on the first Tuesday of each month, and the board may hold special meetings upon notice. The regular meetings may be adjourned for any time shorter than one month. Special meetings may be called by the president, or in case of his absence or inability to act, by any three members of the board as often as necessary by giving a personal notice in writing to each member of the board or by causing such notice to be left at his place of residence at least forty-eight hours before the hour of such special meeting.

§ 838. **Secretary, duties of.** Such board shall appoint a secretary who shall hold his office during the pleasure of the board and whose compensation shall be fixed by the board. The secretary shall keep a record of the proceedings of the board and perform such other duties as the board may prescribe. Such record or a transcript thereof, certified by the secretary and attested by the seal of the board, shall be received in all courts as prima facie evidence of the facts therein set forth; and such records, and all books, accounts, vouchers and papers of the board shall at all times be subject to inspection by the members of such board or any committee thereof, or by any taxpayer of the district. For the purpose of economy the board may, if deemed advisable, appoint one of its own members secretary. The annual report of the secretary shall contain such items as may be required by the superintendent of public instruction. § 11, c. 64, 1890.

§ 839. **Powers of board.** The board shall have power and it shall be its duty to levy and raise from time to time by tax such sums as may be determined by the board to be necessary and proper for any of the following purposes: § 12, c. 64, 1890.

1. To purchase, exchange, lease or improve sites for school houses.
2. To build, purchase, lease, enlarge, alter, improve and repair school houses and their outhouses and appurtenances.
3. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages.
4. To procure fuel and defray the contingent expenses of the board, including the expenses of the secretary.
5. To pay teachers' wages after the apportionment of public moneys which may be by law appropriated and provided for that purpose.

§ 840. **Collection of tax.** The tax to be levied and collected as aforesaid by virtue of this article shall be collected in the same manner as other county taxes, and for that purpose the board of education shall have power to levy and cause to be collected such taxes as are herein authorized, and shall cause the amount for each purpose to be certified by the secretary to the county auditor in time to be added to and put upon the annual tax list of the county. And it shall be the duty of the county auditor to calculate and extend upon the annual assessment roll and tax list the tax so levied by such board, and such tax shall be collected as other county taxes are collected. § 13, c. 64, 1890.

§ 841. **Amount of tax limited.** The amount raised for teachers' wages and contingent expenses shall be only such as together with the public moneys coming to such district from the state and county fund and other sources shall be sufficient to maintain efficient and proper schools in such district. The taxes for the purchasing, leasing or improving of sites, and the building, purchasing, leasing, enlarging, altering or repairing of school houses shall not exceed in any year twenty mills on the dollar of the assessed valuation of the taxable property of the district, and the board of education is authorized and directed, when necessary, to borrow in anticipation, the amount of the taxes so to be raised, levied and collected as aforesaid. § 14, c. 64, 1890.

§ 842. **Authority to issue bonds.** The board of education of such district is authorized and empowered and it is its duty, whenever the board deems it necessary for the efficient organization and establishment of schools in such district, and when the taxes author- § 15, c. 64, 1890,  
1, c. 61, 1891.

ized by this article shall not be sufficient or shall be deemed by the board to be burdensome upon the taxpayers of the district, from time to time to issue bonds of the district in the denomination of not less than one hundred dollars, payable at a time not to exceed twenty-five years after date and bearing interest at a rate not to exceed seven per cent per annum, payable semi-annually, and upon their face to show that they are issued for school purposes, and cause the same to be sold at not less than par value and the money realized therefrom deposited with the city treasurer to the credit of such board of education; and when any bonds shall be so negotiated it shall be the duty of the board to provide by tax for the payment of the principal and interest of such bonds; provided, that at no time shall the aggregate amount of such bonds exceed thirty mills on the dollar of valuation of the taxable property of such district to be determined by the last city assessment.

§ 16. c. 64, 1890.

**§ 843. Moneys paid to city treasurer.** All moneys raised pursuant to the provisions of this article and all moneys which shall by law be appropriated to or provided for such district, shall be paid over to the city treasurer of the city, and the county treasurer shall from time to time, as he shall receive the county school funds, and at least once in each month, on the first Monday thereof, pay over to such city treasurer the proportion thereof belonging to such district; and for that purpose the board shall have power to cause all needful steps to be taken, including census reports or other acts or things, to enable such board to receive the school money belonging to such district, as fully and completely as though such district formed one of the school districts of the county where the same may be situated.

§ 17. c. 64, 1890.

**§ 844. Bond of treasurer.** The city treasurer of such city shall give a bond to such board of education in such sum as the board shall from time to time require, with two or more sureties to be approved by the board, conditioned for the safe-keeping of the school funds, which shall be in addition to his other bond; and such treasurer and the sureties upon such bond shall be accountable to the board for the moneys that come into his hands, and in case of failure of such treasurer to give such bond when required by the board, or within ten days thereafter, his office shall become vacant and the city council shall appoint another person in his place.

§ 18. c. 64, 1890.

**§ 845. School funds, how kept and paid out.** All moneys required to be raised by virtue of this article shall be paid in cash or in the warrants hereinafter provided, drawn on the school fund only, and such moneys and all moneys received by such district for the use of the common schools therein shall be deposited for safe-keeping with such city treasurer to the credit of the board of education and shall by him be safely kept separate and apart from any other funds until drawn from the treasury as herein provided. Such treasurer shall pay out the moneys authorized by this article only upon warrants drawn by the president, countersigned by the secretary and attested by the seal of such board of education.

§ 19. c. 64, 1890.

**§ 846. General powers of board.** The board shall have power and it shall be its duty:

1. To organize and establish such schools in the district as it shall deem requisite and expedient, and to change and discontinue the same.
2. To purchase, sell, exchange and hire school houses and rooms, lots or sites for school houses and to fence and improve the same.



3. To build, enlarge, alter, improve and repair school houses, outhouses and appurtenances as it may deem advisable upon lots and sites owned by the district.

4. To purchase, sell, exchange, improve and repair school apparatus, books for indigent pupils, furniture and appendages and provide fuel for schools.

5. To have the custody and safe keeping of the school houses, outhouses, books, furniture and appurtenances, and to see that the ordinances of the city council in relation thereto are observed.

6. To contract with and employ all teachers in such schools and to remove them at pleasure.

7. To pay the wages of such teachers out of the money appropriated and provided by law for the support of common schools in such district, so far as the same shall be sufficient, and the residue thereof from the money authorized to be raised by this article.

8. To defray the necessary and contingent expenses of the board, including the compensation of the secretary.

9. To have in all respects the superintendence, supervision and management of the common schools of such district, and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, grading, government and instruction, for the reception of pupils and their transfer from one school to another, for the suspension and expulsion of pupils subject to the same restrictions as are contained in subdivision 11 of section 797, and generally for their good order, prosperity and utility.

10. To prepare and report to the city council of the city such ordinances and regulations as may be necessary and proper for their protection, safe keeping, care and preservation of school houses, lots, and sites and appurtenances and all the property belonging to the district connected with or appertaining to the schools within the city limits, and to suggest proper penalties for the violation of such ordinances and regulations, and annually, on or before the first Monday in July, to determine and certify to the county auditor the rate of taxation in its opinion necessary and proper to be levied under the provisions of this article for the year commencing on the first day of July thereafter, and also at any time to determine how many and what denomination of bonds shall be issued and sold to pay the extraordinary outlays required.

**§ 847. Visiting schools.** Each member of the board shall visit all the public schools in the district at least twice in each year of his official term, and the board shall provide that each of such schools shall be visited by a committee of three or more of their number at least once during such term. § 20. c. 64, 1890.

**§ 848. Nonresident pupils.** Such board of education shall have power to allow the children not resident in such district, to attend the schools of such district under the control and care of such board, upon such terms as the board shall prescribe, fixing the tuition which shall be paid therefor. § 21. c. 64, 1890.

**§ 849. Expenditures not to exceed revenues.** It shall be the duty of the board in all its expenditures and contracts to have reference to the amount of money which shall be subject to its order during the current year for the particular expenditures in question and not to exceed that amount. § 22. c. 64, 1890.

§ 23, c. 64, 1890. **§ 850. Title to property of district.** The title to all property belonging to any such independent school district shall be vested in such district for the use of the schools, and the same while used and appropriated for school purposes shall not be levied upon or sold by virtue of any warrant or execution or other process, nor be subject to any judgment or mechanic's lien or taxation for any purpose whatever; and the district in its corporate capacity may take, hold and dispose of any real and personal property transferred to it by gift, grant, bequest or devise for the use of common schools for the district, whether the same is transferred in terms to such district by its proper name or to any person or body for the use of such schools.

§ 24, c. 64, 1890. **§ 851. Real property. Title, how conveyed.** Whenever any property is purchased by the board a conveyance thereof shall be taken in the name of such district; and whenever any sale of such property is made by the board a resolution in favor of such sale shall first be adopted and spread upon the records of the board, and the conveyance of such property shall be executed in the name of such district by the president of the board attested by the secretary under the seal thereof and acknowledged by such officers. Such president and secretary shall have authority to execute conveyances as aforesaid, with or without covenants of warranty on behalf of the district.

§ 25, c. 64, 1890. **§ 852. Report of city treasurer.** It shall be the duty of the city treasurer at least fifteen days before the annual election for members of such board and as often as called upon by the board, to prepare and report to such board a true and correct statement of the receipts and disbursements of moneys under and pursuant to the provisions of this article, during the preceding year, which statement shall set forth under appropriate heads:

1. The money raised by the board under section 839.
2. The school moneys received from the county treasurer.
3. The money received under section 842.
4. All money received by the city treasurer, subject to the order of the board, specifying the sources from which it accrued.
5. The manner in which all money has been expended, specifying the amount under each head of expenditures and the board shall at least one week before such election, cause such statement to be published in all the newspapers of the city which will publish the same gratuitously.

§ 26, c. 64, 1890. **§ 853. City council to pass certain ordinances.** The city council shall have the power and it shall be its duty to pass such ordinances and regulations as the board of education may recommend as necessary for the protection, preservation, safe keeping and care of the school houses, lots, sites, appurtenances, libraries and all necessary property belonging to or connected with the schools of the city, and to provide proper penalties for the violation thereof; and all penalties shall be collected in the same manner that the penalties for the violation of city ordinances are collected, and when collected shall be paid to the city treasurer and placed to the credit of the board of education, and shall be subject to its order as herein provided.

§ 27, c. 64, 1890. **§ 854. Forfeit for refusal to serve as member of board.** It shall be the duty of the clerk of such board immediately after the election of any person as a member thereof, personally or in writing to notify him of his election, and if any person shall not within ten days after receiving such notice of election, take and subscribe the oath as herein provided and file the same with the city auditor, the

board may consider it as a refusal to serve, and fill the vacancy thus occasioned, and the person so refusing shall forfeit and pay to the city treasurer for the benefit of the schools of such district a penalty of fifty dollars, which may be recovered in the name of such city by a civil action.

§ 855. **New district to assume debts of old.** School districts created under the provisions of this article shall assume all obligations and liabilities incurred by the districts out of which they are formed, if old districts are not divided, and a proportionate part, if divided. § 28, c. 64, 1890. am'd.

#### ARTICLE 19. — BOARDS OF EDUCATION IN CERTAIN CITIES.

§ 856. **Boards to be elected at large.** In each city not organized under the general law there shall be a board of education consisting of seven members having the qualifications of electors who shall be elected at large by the electors of such city qualified to vote at school elections; and, except as may be otherwise provided herein for the first election, two members of such board shall be elected annually and three triennially at a special election to be held on the first Tuesday after the first Monday in June; provided, that the provisions of this article shall not apply to cities existing under a special act and which are now conducting their schools under the general school laws. § 1, c. 65, 1890.

§ 857. **Term of office.** The term of office of a member of the board of education, except as in this article otherwise provided, shall be three years and until his successor is elected and qualified. § 2, c. 65, 1890.

§ 858. **Elections, how conducted.** All elections under the provisions of this article shall be called, conducted and the votes canvassed and returned in the manner provided by law for general city elections. § 4, c. 65, 1890.

§ 859. **Relatives not eligible as teachers.** No son, wife or daughter of any member of the school board shall be eligible to a position as teacher in schools of the district which such member represents, except upon the consent of all the members of such board. § 5, c. 65, 1890.

§ 860. **Independent school organizations under special laws abolished.** Any independent district organized for school purposes under a special law, which does not include or is not included in any city or incorporated town or village organized for municipal purposes, shall become a part of the school district in which it is located by the repeal of the special law organizing or governing such independent district. Any independent district organized for school purposes under a special law or under any other law than is contained in this chapter, which includes or is included in any city or incorporated town or village organized for municipal purposes, shall become a special district by the repeal of the special law organizing or governing such independent school district. Any school district or special district so constituted or constituted in part shall be governed by the provisions of this chapter; provided, that nothing herein shall prevent any such independent district from coming under the operation of this chapter in the manner therein provided. § 1, c. 63, 1891.

§ 861. **Old school officers hold over.** The board of education or other governing board of such independent district shall continue to exercise the powers and duties devolving upon it under the § 2, c. 63, 1891.

provisions of such special or other law governing such independent district, the same as though such law had not been repealed, until the second Tuesday in July following the repeal of such special or other law; provided, that all that portion of the general school laws which provides for an annual school election shall apply to such independent district and shall be in full force and effect for the purpose of electing school officers at such annual school election; and such officers shall be elected in and for the whole school district, including the independent district or portion of such independent district located therein, or in and for the special district, the same as though no law had ever existed providing for the organization of such independent district; provided, further, that in a special district formed and created as herein provided, a full board of education shall be elected as provided by law for first elections, but in school districts formed and created as herein provided by the addition of such independent district or portion thereof, there shall be elected only such officers as are required to fill the regular vacancies in the school offices of such school district heretofore organized.

§ 862. **Debts and assets determined by arbitration.** When the boundaries of such school district shall have been arranged as contemplated in this article, the determination and division or consolidation of all debts, property and assets of the several portions of such district or districts so consolidated shall be made by arbitration as provided by law.

§ 3, c. 63, 1891.

#### ARTICLE 20. — FREE TEXT BOOKS.

§ 863. **Power of school boards.** The school board of any city, town or district in this state is hereby authorized and empowered to select, adopt or contract for the text books and other supplies needful for the use of the school or schools under its charge; and such board shall have power to purchase the text books selected or contracted for, and provide for the loan free of charge, or sale at cost, of such text books to the pupils in attendance at such school or schools as provided for in the next section.

§ 1, c. 109, 1895.

§ 864. **Proposition submitted to electors.** Upon the petition of a majority of the qualified electors the school board of any city, town or district shall submit at the next annual school election to the legal voters thereof the question of providing free text books and other school supplies for the use of the pupils attending the schools under its charge. In case a majority of the legal voters present and voting shall vote in favor of free text books and other school supplies, the school board of such city, town or district so voting shall purchase, at the expense of such city, town or district, text books and other school supplies used in the public or common schools, and said text books and supplies shall be loaned to the pupils of said public schools free of charge, subject to such rules and regulations as to care and custody as the school board may prescribe.

§ 2, c. 109, 1895.

#### ARTICLE 21. — PURCHASE OF FLAGS FOR SCHOOL DISTRICTS.

§ 865. **United States flag to be displayed.** The school board of each city, town and district is authorized and required to purchase at the expense of the city, town or district one or more flags

§ 1, c. 62, 1890.  
am'd.

of the United States, which shall be displayed upon the school houses or flagstuffs upon the school grounds during the school hours of each day's session of school.

ARTICLE 22.—STATE EDUCATIONAL LIBRARY.

§ 866. **Appropriation for.** There is hereby appropriated out of any funds in the state treasury the sum of three hundred dollars annually, to be paid by warrant of the state auditor on the state treasurer upon the presentation of an itemized bill in due form by the superintendent of public instruction, for the purchase of reference or pedagogical books for the state educational library in the office of such superintendent. § 1. c. 32. 1891.

ARTICLE 23.—HIGH SCHOOL BOARD.

§ 867. **High school board.** The governor, superintendent of public instruction and president of the state university, are hereby constituted a board of commissioners on preparatory schools for the encouragement of higher education in the state. Said board shall be called the "High School Board" and shall perform the duties and have and exercise the powers hereinafter mentioned. § 1. c. 53. 1895.

§ 868. **Students classified.** Any public graded school in any city or incorporated village or township organized into a district under the township or district system, which shall give instruction according to the terms and provisions of this article, and admit students of either sex from any part of the state, shall be entitled to be classified as a state high school; provided, however, that no such school shall be required to admit nonresident pupils unless they shall pass an examination in orthography, reading, penmanship, arithmetic, grammar, modern geography and United States history. § 2. c. 53. 1895.

§ 869. **Requirements for classification.** The board shall require of the schools desiring to be classified as state high schools, compliance with the following requirements: § 3. c. 53. 1895.

1. That there be regular and orderly courses of study, embracing all the branches prescribed by said board, for the first two years of the high school course.

2. That the schools classified as state high schools under this article shall at all times permit the board of commissioners, or any member thereof, to visit and examine the classes pursuing such preparatory courses.

§ 870. **School visited once each year.** The board of commissioners shall cause each school classified as a state high school under this article to be visited, at least once in each school year, by a committee of one or more members, who shall carefully inspect the instruction and discipline of such high schools and make a written report on the same immediately; provided, that the board may, in its discretion, appoint in any case, competent persons to visit and inspect any schools and to make report thereon; and no school shall be classified as a state high school in any case until after such report shall have been received and examined by the board and the work of the school approved by a vote of the board. § 4. c. 53. 1895.

§ 871. **No compensation.** The members of said board shall serve without compensation. § 5. c. 53. 1895.

§ 6. c. 53. 1895.     **§ 872. Discretionary powers.** The high school board shall have full discretionary power to consider and act upon applications of schools for classification and to prescribe the conditions upon which such classification shall be made; and it shall be its duty to accept such schools only as will, in its opinion, if accepted, efficiently perform the service contemplated by law. Any school once accepted and continuing to comply with this article and with the regulations of the board made in pursuance thereof, shall be so classified not less than three years. The board shall have power to establish any necessary and suitable rules and regulations relating to examinations, reports, acceptance of schools, courses of studies, and other proceedings under this article.

§ 7. c. 53. 1895.     **§ 873. Shall keep record.** The board shall keep a careful record of all its proceedings and shall make on or before the first day of December in each year, a report, covering the previous school year, to the superintendent of public instruction, showing the names and number of schools classified as state high schools and the number of pupils attending the classes in each to which report it may add such recommendations as it may deem useful and proper.

ARTICLE 24.—HEALTH AND DECENCY IN PUBLIC SCHOOLS.

§ 1. c. 55. 1895.     **§ 874. Duty of boards of education.** It shall be the duty of all boards of education and district school boards in this state to provide suitable and convenient water closets or privies for each of the schools under their charge, at least two in number, which shall be entirely separate each from the other, and having separate means of access; and it shall be the duty of the school officers aforesaid to keep the same in a clean, chaste and wholesome condition; and a failure to comply with the provisions of this article on the part of any board of education or district school board, shall be sufficient grounds for removal from office and for withholding from any district any part of the public moneys of the state. The expense incurred by the officers aforesaid in carrying out the requirements of this article shall be a charge upon the district, when such expense shall have been approved by the county superintendent of schools of the county within which the school district is located, and a tax may be levied therefor without a vote of the district.

CHAPTER 10.

EDUCATIONAL AND CHARITABLE INSTITUTIONS.

ARTICLE 1.—UNIVERSITY OF NORTH DAKOTA.

§ 1. c. 40. Sp. 1883. am'd.     **§ 875. University, where located.** The university of North Dakota as now established and located at the city of Grand Forks shall continue to be the university of the state.

§ 2. c. 40. Sp. 1883. § 1. c. 168. 1887.     **§ 876. Board of trustees to govern.** The government of such university shall be vested in a board of trustees consisting of five members to be appointed by the governor by and with the advice and consent of the senate, who shall hold their office for the term of four years commencing on the first Tuesday in April next succeeding their appointment.

**§ 877. Governor to nominate. Vacancies, how filled.**

The governor shall nominate and, by and with the advice and consent of the senate, appoint during each regular session of the legislative assembly trustees of such university in the place of those whose terms shall thereafter first expire, and such trustees shall hold their office until their successors are appointed and qualified; provided, that the governor shall fill any vacancy in such board by appointment to extend only until the first Tuesday in April succeeding the next regular session of the legislative assembly; and provided, further, that the governor shall during such next regular session nominate and, by and with the advice and consent of the senate, appoint some person to fill such vacancy for the remainder of the term unexpired. Not more than two members of the board shall be appointed from the same county.

**§ 878. Powers and duties of board.** The board of trustees shall possess all the powers necessary to accomplish the objects and perform the duties prescribed by law, and shall have the custody of the books, records, buildings and all other property of such university. The board shall elect a president and a secretary who shall perform such duties as may be prescribed by the by-laws of the board. The secretary shall keep a correct record of all transactions of the board, and of the committees thereof, and in addition to performing the duties of secretary, he shall be the superintendent of the buildings and grounds of the university and discharge such other duties as may from time to time be prescribed by the board of trustees.

§ 3. c. 40, Sp.  
1883.  
§ 1. c. 168, 1887.  
am'd.

**§ 879. Meetings of the board.** The time for the election of the president and secretary of such board and the duration of their respective terms of office, the time for holding the regular annual meeting, and such other meetings as may be required, and the manner of giving notice of the same shall be determined by the board. Four members shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

§ 4. c. 40, Sp.  
1883.  
§ 2. c. 168, 1887.

**§ 880. Number of meetings limited.** Such board shall not hold more than twelve sessions in any year and such sessions shall not exceed twenty-four days in the aggregate; but the governor may in his discretion authorize additional sessions.

§ 3. c. 83, 1889.  
am'd.

**§ 881. Government of university. Powers of trustees.** The board of trustees shall adopt rules for the government of the university in all its branches; elect a president and the requisite number of professors, instructors, officers and employees, fix the salaries and the term of office of each, and determine the moral and educational qualifications of applicants for admission to the various courses of instruction; but no instruction, either sectarian in religion or partisan in politics shall ever be allowed in any department of the university, and no sectarian or partisan test shall ever be allowed or exercised in the appointment of trustees, or in the election of professors, teachers or other officers of the university, or in the admission of students thereto or for any purpose whatever. Such board shall have power to remove the president or any professor, instructor or officer of the university, when in its judgment the interests of the university require it. The board may prescribe rules and regulations for the management of the library, cabinets, museum, laboratories and all other property of the university and of its several departments and for the care and preservation thereof, with suitable penalties and

§ 5. c. 40, Sp.  
1883.

forfeitures by way of damages for their violation, which may be sued for and collected in the name of the board before any court having jurisdiction.

§ 6. c. 40. Sp.  
1883.

**§ 882. Board may expend income.** The board is authorized to expend such portion of the income of the university fund as it may deem expedient for the erection of suitable buildings and the purchase of apparatus, a library, cabinets and additions thereto; and, if deemed expedient, it may unite with the university as a branch thereof any college in the state, upon application of its board of trustees; and such college so received shall become a branch of the university and be subject to visitation by the trustees.

§ 7. c. 40. Sp.  
1883.

**§ 883. Board to make report, when.** At the close of each fiscal year the trustees through their president shall make a report in detail to the governor, exhibiting the progress, condition and wants of each of the colleges embraced in the university, the course of study in each, the number of professors and students, the amount of receipts and disbursements, together with the nature, cost and results of all important investigations and experiments and such other information as they may deem important, one copy of which shall be transmitted free by the governor to each college endowed under the provisions of the act of congress entitled "An act donating land to the several states and territories which provide colleges for the benefit of agriculture and mechanic arts," approved July 2, 1862, and also one copy to the secretary of the interior.

§ 8. c. 40. Sp.  
1883.

**§ 884. Powers of the president and faculty.** The president of the university shall be president of the several faculties and the executive head of the instructional force in all its departments; as such, he shall have authority, subject to the power of the board of trustees to give general directions respecting the instruction and scientific investigation of the several colleges, and so long as the interests of the institution require it he shall be charged with the duties of one of the professorships. The immediate government of the several colleges shall be intrusted to their respective faculties, but the trustees shall have the power to regulate the course of instruction and prescribe the books or works to be used in the several courses, and also to confer such degrees and grant such diplomas as are usual in universities, or as they shall deem appropriate, and to confer upon the faculty, by by-laws, the power to suspend or expel students for misconduct or other causes prescribed in such by-laws.

§ 9. c. 40. Sp.  
1883.  
§ 3. c. 168. 1887.  
§ 1. c. 180. 1890.

**§ 885. Object and departments of the university.** The objects of the university shall be to provide the means of acquiring a thorough knowledge of the various branches of learning connected with scientific, industrial and professional pursuits, in the instruction and training of persons in the theory and art of teaching, and also instruction in the fundamental laws of this state and of the United States in regard to the rights and duties of citizens, and to this end it shall consist of the following branches or departments:

1. The college or department of arts.
2. The college or department of letters.
3. The normal college or department.
4. The school of mines, the object of which shall be to furnish facilities for the education of such persons as may desire to receive instruction in chemistry, metallurgy, mineralogy, geology, mining, milling and engineering.



5. The military department or school, the object of which shall be to instruct and train students in the manual of arms and such military maneuvers and tactics as are taught in military colleges.

6. Such professional or other colleges or departments as now are or may from time to time be added thereto or connected therewith, and the board of trustees is hereby authorized to establish such professional and other colleges or departments as in its judgment may be deemed necessary and proper; but no money shall be expended by the board in establishing and organizing any of the additional colleges or departments provided for in this section, until an appropriation therefor shall have first been made.

§ 886. **Courses of instruction.** The college or department of arts shall embrace courses of instruction in mathematical, physical and natural sciences, with their application to industrial arts such as agriculture, mechanics, engineering, mining, and metallurgy, manufactures, architecture and commerce and such branches included in the college of letters as shall be necessary properly to fit the pupils in the scientific and practical courses for their chosen pursuits, and in military tactics. In the normal department the proper instruction and learning in the theory and art of teaching and in all the various branches and subjects needful to qualify for teaching in the common schools; and as soon as the income of the university will allow, in such order as the wants of the public shall seem to require, the courses of sciences and their application to the practical arts shall be expanded into distinct colleges of the university, each with its own faculty and appropriate title. The college of letters shall be co-existent with the college of arts, and shall embrace a liberal course of instruction in languages, literature and philosophy, together with such courses or parts of courses in the college of arts as the trustees shall prescribe. § 10. c. 40, Sp. 1883.

§ 887. **Scandinavian language taught.** It shall be the duty of the trustees to cause to be taught at said institution the Scandinavian language, and for that purpose shall employ as one of the teachers of such institution a professor learned in that language. § 1. c. 60, 1891.

§ 888. **Pupils, who may become.** The university shall be open to students of both sexes under such regulations and restrictions as the board of trustees may deem proper, and all able bodied male students of the university may receive instruction and discipline in military tactics, the requisite arms for which shall be furnished by the state. § 11. c. 40, Sp. 1883.

§ 889. **Graduates entitled to certificates to teach.** After any person has graduated at the university, and after such graduation has successfully taught a public school in this state for sixteen months, the superintendent of public instruction shall have authority and it shall be his duty to countersign the diploma of such teacher if upon examination he is satisfied that such person has a good moral character and is possessed of sufficient learning and ability to teach. Any person holding a diploma granted by the board of trustees of such university, certifying that the person holding the same has graduated from such university, shall, after his diploma has been countersigned by the superintendent of public instruction as aforesaid, be deemed qualified to teach any of the public schools in the state, and such diploma shall be a certificate of such qualification until annulled by the superintendent of public instruction. § 11. c. 40, Sp. 1883. am'd.

§ 12, c. 40, Sp.  
1883.

**§ 890. Tuition fees.** No student who shall have been a resident of the state for one year next preceding his admission shall be required to pay any fees for tuition in the university, except in the law department and for extra studies. The trustees may prescribe rates of tuition for any pupil in the law department, or who is not a resident as aforesaid, and for teaching extra studies.

§ 4, c. 93, 1889,  
am'd.

**§ 891. Compensation of trustees.** The trustees shall be entitled to receive the sum of three dollars per day for each day employed in attendance upon sessions of the board and all traveling expenses necessarily incurred thereby. Upon the presentation of the proper vouchers containing an itemized statement of the number of days attendance and money actually expended as above specified, duly verified by the oath of the trustee and certified by the president and secretary of the board, the state auditor shall audit such claim and draw his warrant upon the state treasurer for the amount allowed.

§ 17, c. 40, Sp.  
1883.

**§ 892. Trustees to make rules and by-laws.** The board of trustees shall make rules, regulations and by-laws for the government and management of the university and of each department thereof. It shall also prescribe rules, regulations and by-laws for the admission of students; but each applicant for admission must undergo an examination to be prescribed by the board, and shall be rejected if it shall appear that he is not of good moral character. The board shall also require each applicant for admission in the normal department, other than such as shall, prior to admission, sign and file with such board a declaration of intention to follow the business of teaching in the common schools of this state for at least one year, to pay such fees for tuition as the board may deem proper and reasonable.

§ 2, c. 42, Sp.  
1883.

**§ 893. Salaries.** The board of trustees shall from time to time fix the salary of the president, professors and teachers of such university, and shall certify the same to the state auditor. Such board shall also from time to time certify to the state auditor the amount due such persons for salary, and the state auditor shall draw his warrants upon the state treasurer for the amounts so certified.

§ 1, c. 179, 1890.

**§ 894. Secretary of state to furnish laws.** The secretary of state shall deliver to the university fifty copies of each volume of the general and special laws of the state, and the reports of the decisions of the supreme court, hereafter published, for use in the way of exchanges and otherwise in the establishment and maintenance of a law library for the law department of such university.

§ 2, c. 179, 1890.

**§ 895. Supreme court reports, how obtained.** He shall procure for the purpose aforesaid from the publishers of the supreme court reports fifty copies of each volume thereof hereafter published, in addition to the number authorized for other purposes, to be paid for at the same price and in the same manner as such reports are delivered to the secretary for other purposes.

§ 1, c. 181, 1890.

**§ 896. Loan of muskets authorized.** The adjutant general or whoever may be in charge of state arms shall, under the direction of the governor, loan to the board of trustees of such university one hundred muskets and accoutrements or as many as can be spared, not exceeding that number, the same to be used for drill purposes, by the students of such university.

§ 2, c. 181, 1890.

**§ 897. Muskets, when returned.** In case such arms and accoutrements are needed by the state at any time, the governor or adjutant general under his instructions may call in the same and the

trustees of such university shall immediately turn the same over to such officer in good condition.

§ 898. **Geological survey. Duty of trustees.** It shall be the duty of the board of trustees of the university to cause to be begun as soon as may be practicable, and to carry on a thorough geological and natural history survey of the state. § 1. c. 66, 1895.

§ 899. **Extent of the survey.** The geological survey shall be carried on with a view to a complete account of the mineral kingdom, as represented in the state, including the number, order, dip and magnitude of the several geological strata, their richness in ores, coals, clays, peats, salines and mineral waters, marls, cements, building stones and other useful materials, the value of said substances for economical purposes, and their accessibility; also an accurate chemical analysis of the various rocks, soils, ores, clays, peats, marls and other mineral substances of which a complete and exact record shall be made. § 2. c. 66, 1895.

§ 900. **Meteorological statistics tabulated.** The board of trustees shall also cause to be collected and tabulated such meteorological statistics as may be needed to account for the varieties of climate in the various parts of the state; also to cause to be ascertained by barometrical observations or other appropriate means, the relative elevations and depressions of the different parts of the state; and also on or before the completion of such surveys to cause to be compiled from such actual surveys and measurements as may be necessary an accurate map of the state; which map when approved by the governor shall be the official map of the state. § 3. c. 66, 1895.

§ 901. **Specimens collected.** It shall be the duty of said board to cause proper specimens, skillfully prepared, secured and labeled, of all rocks, soils, ores, coals, fossils, cements, building stones, plants, woods, skins and skeletons of animals, birds, insects and fishes, and other mineral, vegetable and animal substances and organisms discovered or examined in the course of said surveys, to be preserved for public inspection free of cost, in the university of North Dakota, in rooms convenient of access and properly warmed, lighted, ventilated and furnished, and in charge of a proper scientific curator; and they shall also, whenever the same may be practicable, cause duplicates in reasonable numbers and quantities of the above named specimens, to be collected and preserved for the purpose of exchange with other state universities and scientific institutions, of which latter the Smithsonian institution at Washington shall have the preference. § 4. c. 66, 1895.

§ 902. **Map of the state.** The board shall cause a geological map of the state to be made as soon as may be practicable, upon which by colors and other appropriate means and devices the various geological formations shall be represented. § 5. c. 66, 1895.

§ 903. **Annual report of trustees.** It shall be the duty of the board, through its president, to make on or before the second Tuesday in December of each year, a report showing the progress of said surveys, accompanied by such maps, drawings and specifications as may be necessary and proper to exemplify the same to the governor, who shall lay the same before the legislative assembly, and the board upon the completion of any separate portion of any of the said surveys shall cause to be prepared a memoir or final report which shall embody in a convenient manner all useful and important information accumulated in the course of the investigation of the particular department or portion; which report or memoir shall likewise be communicated through the governor to the legislative assembly. § 6. c. 66, 1895.

§ 7. c. 66, 1895.     **§ 904. State geologist.** The professor of geology in the university shall be ex officio state geologist.

ARTICLE 2.—NORMAL SCHOOLS.

§ 1. c. 89, 1891, am'd.     **§ 905. Normal schools located.** The normal school as established and located at the city of Mayville in the county of Traill, and the normal school as established and located at the city of Valley City in the county of Barnes, shall continue to be the normal schools of the state.

§ 2. c. 89, 1891.     **§ 906. Endowment and maintenance.** All proceeds accumulating in the interest and income fund arising from the sale or rental of the lands granted or hereafter to be granted by the state of North Dakota, for such normal schools, are hereby pledged for the establishment and maintenance of such schools.

§ 3. c. 89, 1891.     **§ 907. Management of.** The government and management of such schools are vested in a board of trustees to be known as the board of trustees of the state normal schools, and in a board of management for each school to be known as the board of management of the normal school at Mayville, and the board of management of the normal school at Valley City respectively.

§ 4. c. 89, 1891.     **§ 908. Boards, how constituted.** The board of management for each normal school shall consist of five members. The board of trustees of such normal schools shall consist of twelve members, ten of whom shall be the members of the respective boards of management as herein provided. The governor and superintendent of public instruction shall be ex officio members of such board of trustees, and the superintendent of public instruction shall act as president of such board.

§ 6. c. 89, 1891.     **§ 909. Terms of trustees.** The governor shall by and with the advice and consent of the senate appoint during each biennial session of the legislative assembly, five members of such board of trustees who shall hold their office for four years commencing on the second Tuesday in April following such appointment. The governor shall fill all vacancies therein by appointment for unexpired terms. At the first meeting of the board of management of each normal school the members thereof shall take and subscribe the oath of office required of all civil officers and shall proceed to elect a president who shall reside in the vicinity of such normal school, and the principal of the school shall be the secretary of the board but shall have no vote. In the absence of the principal the board may select one of its members to act as secretary. A majority of the members of the board of management shall constitute a quorum for the transaction of business.

§ 7. c. 89, 1891.     **§ 910. Commissions. Secretary.** The governor shall cause to be issued to each of the members of the board of trustees a commission under the great seal of the state, and such commission shall designate the board of management upon which such members shall serve. At the first meeting of the board the members thereof shall proceed to select and appoint a secretary of the board. A majority of the members of the board of trustees shall constitute a quorum for the transaction of business.

§ 9. c. 89, 1891.     **§ 911. Meetings. Compensation.** The board of trustees shall meet at Valley City and at Mayville or at the seat of government at such time each year as may be decided upon by the board. The

members of the board shall receive their actual and necessary expenses in attending meetings of the board or in other duties connected therewith, which expenses shall be paid out of the state treasury upon the vouchers of the board approved by the state auditor, who shall issue his warrant upon the state treasurer for the amount so approved. The board of trustees shall not be in session for exceeding eight days in any one year nor either board of management to exceed twelve days during each year. The secretary of the board of trustees shall receive such salary as shall be determined by the board not exceeding one hundred dollars a year and his actual expenses incurred in attending meetings of the board, which shall be paid as herein provided for members of the board of trustees.

§ 912. **Treasurer to keep funds.** All moneys arising from the interest and income derived from the rental and sale of the lands appropriated to such schools and all moneys that may hereafter be appropriated by the state, including all moneys raised in any other manner for either of such schools shall be deposited with the state treasurer, to be by him kept in two separate funds, to be known as the fund of the state normal school at Mayville, and the fund of the state normal school at Valley City, respectively, and such funds shall be used exclusively for the benefit of such schools. § 11, c. 89, 1891.

§ 913. **Objects of normal schools.** The objects of such normal schools shall be to prepare teachers in the science of education and the art of teaching in public schools. The board of trustees, with the assistance of the respective faculties, shall adopt the full course of study prescribed for that purpose, which shall embrace the academic and professional studies usually taught in normal schools. Such schools shall in all things be free from sectarian control. § 13, c. 86, 1891.

§ 914. **Duties of board as to appropriations.** The board of management of each normal school shall direct the disposition of all moneys appropriated by the legislative assembly for current expenses for such school, and shall have supervision and charge of the construction of all buildings authorized by law for such school, and shall direct the disposition of all moneys appropriated therefor or accumulating therefor as provided in this article. They shall have power to appoint one of their members superintendent of construction of all buildings, who shall receive three dollars per day for each day actually and necessarily engaged in the discharge of his duties, not to exceed fifty days in any one year, which sum shall be paid out of the state treasury as herein provided; but all expenditures incurred under the direction of either of the boards aforesaid shall be audited and allowed by such board of management and the expenditures incurred under the direction of the board of trustees aforesaid shall be audited and allowed by such board. § 14, c. 89, 1891.

§ 915. **Salaries of employees. Reports.** The board of management of each normal school shall have the care of the buildings belonging to such school. It shall have power to fix the salaries of employees, except members of the faculty, and to prescribe their respective duties, and to remove any of such employees at any time. It shall at such times as may be determined upon propose to the board of trustees the names of persons as principal, teachers and instructors, with the recommendation that such persons be employed by such board of trustees as the faculty of such school. It shall on or before the third Monday in November of each year, make an annual report to the board of trustees, showing a statement of all § 15, c. 89, 1891.

expenditures of funds under its direction, the erection and care of buildings, the condition of the schools, and containing such recommendations as they may think proper.

§ 16, c. 89, 1891.

**§ 916. Salaries of principal and teachers.** The board of trustees shall fix the salaries of the principal, teachers and instructors, and shall employ the persons therefor that have been recommended by the respective boards of management, unless in the opinion of the board of trustees a reasonable ground exists for refusing to employ such person. The board of trustees shall prescribe the time and the length of the various terms of such schools.

§ 17, c. 89, 1891.

**§ 917. The faculty, duties of.** The faculty shall consist of the principal, teachers and instructors employed for each school as herein provided. They shall pass all needful rules and regulations for the government and discipline of the schools, regulating the routine of labor, study, meals and the duties and exercises and such other rules and regulations as are necessary for the preservation of morals, decorum and health. They shall carry out the course of study adopted by the board of trustees and shall arrange for the classification of all pupils in conformity therewith.

§ 18, c. 89, 1891.  
am'd.

**§ 918. Duty of principal.** The principal shall be the chief executive officer of the school and it shall be his duty to see that all the rules and regulations are executed. The subordinate officers and employees shall be under his direction and supervision.

§ 19, c. 89, 1891.  
am'd.

**§ 919. Annual report of faculty.** The faculty shall, on or before the third Monday in October in each year make an annual report to the board of trustees showing the general condition of the school and containing such recommendations as the welfare of the institution demands.

§ 20, c. 89, 1891.  
am'd.

**§ 920. Biennial reports to governor.** The board of trustees shall make a report to the governor on or before the fifteenth day of November next preceding each biennial session of the legislative assembly, containing the several reports of the boards of management and faculties herein provided for, showing the condition of the funds appropriated for the school, the money expended and the purpose for which the same was expended, in detail, and showing the condition of the normal schools generally.

§ 21, c. 89, 1891.

**§ 921. Diplomas.** The board of trustees and the respective faculties of each school shall have power to issue diplomas to all persons who shall have completed the course of study prescribed for the normal schools as herein provided, and who shall have passed a satisfactory examination under the direction of the board of trustees, upon the branches contained in such course, and who shall be known to possess a good moral character, which diploma shall set forth the above mentioned facts and shall be designated the state normal school diploma.

§ 22, c. 89, 1891.

**§ 922. State professional certificate.** Any person who is the holder of such a diploma and who can furnish satisfactory evidence to the superintendent of public instruction that he has had three years' successful experience as a teacher, shall be granted by the superintendent of public instruction a state professional certificate, valid for life, as provided by law, and any such person who can furnish satisfactory evidence of one year's successful experience as a teacher shall be granted such certificate, valid for five years, as provided by law. The fees for such certificate shall be as provided by law.

## ARTICLE 3. — NORTH DAKOTA ACADEMY OF SCIENCE.

§ 923. **Academy of science, location of.** The North Dakota academy of science heretofore established at Wahpeton is hereby continued as such. The object of such academy shall be to furnish instruction in such arts and sciences as the board of trustees shall prescribe. Such academy shall contain a preparatory department where all the various branches shall be taught pertaining to a good common school education. § 1, c. 158, 1890. am'd.

§ 924. **Management.** Such school shall be under the direction of a board of trustees and shall be governed and supported as hereinafter provided. § 2, c. 158, 1890.

§ 925. **Board, how appointed.** Such board shall consist of five members, three of whom shall be appointed by the governor as follows: During each biennial session of the legislative assembly the governor shall nominate and, by and with the advice and consent of the senate, appoint one member of such board who shall hold his office for the period of six years, commencing on the first Tuesday in April succeeding such appointment, and until his successor is appointed and qualified and the governor may fill vacancies in such board by appointment as in other cases. The state treasurer and superintendent of public instruction shall be ex officio members of such board; and the members thereof shall annually elect from their number a president and secretary. It shall be the duty of the secretary to keep a detailed account of the acts of the board, and he shall make such reports to the legislative assembly as are required by this article. § 3, c. 158, 1890. am'd.

§ 926. **Powers of board.** Such board shall have power to appoint a principal and assistant to take charge of such school, and such other teachers and officers as may be required and fix the salaries of each, and prescribe their several duties. It shall also have power to remove either the principal, assistant or teachers and appoint others in their stead. The board shall prescribe the various books to be used in such school and shall make all the regulations and by-laws necessary for the good government and management of the same, and shall have power to procure all necessary apparatus, instruments and appurtenances for instruction in such schools. § 4, c. 158, 1890.

§ 927. **Rules and regulations.** The board shall prescribe such rules and regulations for the admission of pupils to said school as it shall deem necessary and proper. Each applicant for admission shall undergo an examination in such manner as shall be prescribed by the board. And the board may in its discretion require applicants for admission into such school to pay or secure to be paid such fees or tuition as the board shall deem reasonable. § 5, c. 158, 1890.

§ 928. **Official school visits.** There shall be appointed annually by the board three persons, not members of such board, whose duty it shall be to visit such school at least once in each year and report to the superintendent of public instruction their views in regard to its condition, success and usefulness, and any other matters which they may deem expedient. § 10, c. 158, 1890.

§ 929. **Expenses of board, how paid. Faculty, how paid.** All necessary expenses incurred by members of the board of trustees under the provisions of this article shall be paid on the proper voucher out of any funds belonging to such institution in the hands of the state treasurer, but they shall receive no other compensation. The § 12, c. 158, 1890.

principal, assistant, teachers, board of trustees and other officers employed in such school shall be paid out of the fund of the North Dakota academy of science.

§ 13, c. 158, 1890.  
 1, c. 159, 1890. **§ 930. Appropriation for construction and maintenance.** All moneys received from the interest and income derived from the sale or leasing of the forty thousand acres of land donated by congress and appropriated by the constitution of this state for the benefit of such school, are hereby appropriated for the construction and maintenance thereof.

§ 14, c. 158, 1890. **§ 931. Temporary funds, how secured. Certificates issued.** To provide temporarily for the erection and maintenance of such academy the board of trustees may receive such sums of money as can be actually used in the construction of permanent buildings, procuring ground whereon to build the same, and other needed and necessary improvements to be made and expenses incurred in connection therewith, not exceeding the sum of ten thousand dollars, and to each person, association, or corporation so subscribing and advancing money as aforesaid, the board shall issue a certificate stating the date of issue and the amount of subscription, which certificate shall bear interest at not exceeding six per cent per annum and shall be made payable from the funds to accumulate in the interest and income fund arising from interest on the permanent fund or from rents received for any lands set apart for such academy, or from any appropriation that may hereafter be made for that purpose: provided, that until a sufficient amount of money accumulates in the fund provided for that purpose, with which to pay such certificates, the holders thereof shall each be paid a pro rata share of all moneys to be paid on such indebtedness; provided, further, that no part of any appropriation hereafter to be made from the state treasury, unless specifically appropriated for that purpose, shall ever be used in payment of such indebtedness or any part thereof.

§ 15, c. 158, 1890. **§ 932. State treasurer custodian of all funds.** All money that may arise from the interest received and all money derived from the sale of lands heretofore or that may hereafter be appropriated for such academy, including all money that may be received from the rents of such lands, and all moneys that may be hereafter appropriated for such academy by this state, including all money raised in any other manner or donated to said academy, shall be deposited with the state treasurer to be by him kept in a separate fund which shall be known as the North Dakota academy of science fund and shall be used exclusively for the benefit of such academy.

§ 16, c. 158, 1890. **§ 933. Record and proceedings of board.** A majority of the members of such board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time. All proceedings of the board shall be recorded in a book to be kept for that purpose, which shall be open to inspection by any person on request.

ARTICLE 4. — AGRICULTURAL COLLEGE.

§ 1, c. 160, 1890. **§ 934. Location of.** The agricultural college shall continue as now established and located at Fargo in the county of Cass.

§ 2, c. 160, 1890.  
 am'd. **§ 935. Management of.** The government and management of such college is vested in a board of trustees to be known as the board of trustees of the agricultural college.



§ 936. Board of trustees, how appointed. Vacancies.

The board of trustees shall consist of seven members, to be appointed as follows: During each biennial session of the legislative assembly there shall be nominated by the governor and, by and with the advice and consent of the senate, appointed for the term of four years, trustees to fill vacancies occurring by the expiration of the term of office of those previously appointed. The governor shall have power to fill all vacancies in such board which occur when the legislative assembly is not in session, and the members of such board shall hold their office until their successors are appointed and qualified as provided in this article. Persons appointed to fill vacancies shall hold office only until the first Tuesday in April succeeding the next session of the legislative assembly.

§ 3. c. 160, 1890.  
§ 1. c. 5, 1891.  
am'd.

§ 937. Commission. Oath. Organization.

The governor shall cause to be issued to each trustee so appointed a commission under the great seal of the state. At the first meeting of such board the members thereof shall take and subscribe the oath of office required of other civil officers and shall then proceed to elect a president, secretary and treasurer, but the treasurer shall not be a member of the board. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall require a bond of its treasurer in such an amount and with such sureties as it may deem proper.

§ 4, c. 160, 1890.

§ 938. Meetings, where held. Compensation of trustees.

The board shall hold its meetings at the city of Fargo at such times as it may designate, but there shall not be to exceed six regular meetings each year; provided, that the president of the board shall have power to call special meetings whenever in his judgment it becomes necessary. The members of the board shall receive as compensation for their services the sum of three dollars per day for each day employed and five cents per mile for each mile actually and necessarily traveled in attending the meetings of the board, which sum shall be paid out of the state treasury upon vouchers of the board duly certified by the president and secretary thereof.

§ 5. c. 160, 1890.  
§ 2. c. 5, 1891.

§ 939. Duties of board.

Such board shall direct the disposition of all moneys appropriated by the legislative assembly or by the congress of the United States, or that may be derived from the sale of lands donated by congress to the state for such college, or that may be donated to or come from any source to the state for said college, or experiment station for North Dakota, subject to all restrictions imposed upon such funds either by the constitution or laws of the state or by the terms of such grants from congress, and shall have supervision and charge of the construction of all buildings authorized by law for such college and station. The board shall have power to employ a president and necessary teachers, instructors and assistants to conduct such school and carry on the experiment station connected therewith and to appoint one of its members superintendent of construction of all buildings, who shall receive three dollars per day for each day actually and necessarily engaged in the discharge of his duties, not to exceed fifty days in any one year, which sum shall be paid out of the state treasury upon the vouchers of said board.

§ 6, c. 160, 1890.

§ 940. Course of instruction.

The object of such college shall be to afford practical instruction in agriculture and the natural sciences connected therewith, and in the sciences which bear directly upon all industrial arts and pursuits. The course of instruction shall

§ 8, c. 160, 1890.

embrace the English language and literature, mathematics, military tactics, civil engineering, agricultural chemistry, animal and vegetable anatomy and physiology, the veterinary art, entomology, geology and such other natural sciences as may be prescribed, political, rural and household economy, horticulture, moral philosophy, history, book-keeping and especially the application of science and the mechanic arts to practical agriculture. A full course of study in the institution shall embrace not less than four years, and the college year shall consist of not less than nine calendar months, which may be divided into terms by the board of trustees as in its judgment will best secure the objects for which the college was founded.

§ 9, c. 160, 1890.

§ **941. Board of trustees to fix salaries.** The board of trustees shall fix the salaries of the president, teachers, instructors and other employees and prescribe their respective duties. The board shall also fix the rate of wages to be allowed the students for labor on the farm and experiment station or in the shops or kitchen of the college. The board may remove the president or subordinate officers and supply all vacancies.

§ 10, c. 160, 1890.

§ **942. Faculty to adopt rules and regulations.** The faculty shall consist of the president, teachers and instructors and shall pass all needful rules and regulations for the government and discipline of the college, regulating the routine of labor, study, meals and the duties and exercises, and all such rules and regulations as are necessary for the preservation of morals, decorum and health.

§ 11, c. 160, 1890.

§ **943. Duties of president.** The president shall be the chief executive officer of the college and it shall be his duty to see that all rules and regulations are executed, and the subordinate officers and employees not members of the faculty shall be under his direction and supervision.

§ 12, c. 160, 1890.

§ **944. Faculty to make annual report to board.** The faculty shall make an annual report to the board of trustees on or before the first Monday in November of each year, showing the condition of the school, experiment station and farm and the results of farm experiments and containing such recommendations as the welfare of the institution demands.

§ 13, c. 160, 1890.

§ **945. Annual report to governor.** The board of trustees shall on or before the fifteenth day of November in each year make a report to the governor setting forth in detail the operations of the experiment station, including a statement of the receipts and expenditures, a copy of which report shall be sent by the governor to the commissioner of agriculture and to the secretary of the treasury of the United States, and the board shall also make a report to the governor on or before the fifteenth day of November next preceding each biennial session of the legislative assembly, containing a financial statement showing the condition of all funds appropriated for the use of such college and experiment station, also the moneys expended and the purposes for which the same were expended, in detail, also the condition of the institution and the results of the experiments carried on there.

§ 14, c. 160, 1890.

§ **946. Honorary degrees may be conferred.** The board and the faculty shall have power to confer degrees upon all persons who shall have completed the course of study prescribed by them, and who shall have passed a satisfactory examination in the branches contained in such course, and who possess a good moral character.

§ 947. **Experiment station.** The agricultural experiment station heretofore established in connection with such college is continued and the same shall be under the direction of the board of trustees of such college, for the purpose of conducting experiments in agriculture according to the provisions of section 1 of the act of congress approved March 2, 1887, entitled "An act to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto." § 16. c. 160, 1880. am'd.

§ 948. **Legislative assent to grant by congress.** The assent of the legislative assembly is hereby given in pursuance of the requirements of section 9 of said act of congress, approved March 2, 1887, to the grant of money therein made and to the establishing of an experiment station in accordance with section 1 of said last mentioned act, and assent is hereby given to carry out the provisions of said act. § 17. c. 160, 1880.

§ 949. **Acceptance of land grant.** The grants of land accruing to this state by virtue of an act of congress donating public lands for the use and support of agricultural colleges approved February 22, 1889, is hereby accepted with all the conditions and provisions in said act contained, and said lands are hereby set apart for the use and support of the colleges herein provided for. § 18. c. 160, 1880.

§ 950. **Bond of treasurer.** The treasurer of such college shall give a bond in the sum of fifty thousand dollars with at least four sureties to be approved by the board of trustees of such college, conditioned for the faithful accounting of all moneys received by him as such treasurer. § 5. c. 7, 1891. am'd.

#### ARTICLE 5. — DEAF AND DUMB ASYLUM.

§ 951. **Location.** The deaf and dumb asylum as located by the constitution at Devils Lake shall continue to be the institution for the support and education of the deaf and dumb children of the state. § 1. c. 161, 1880. am'd.

§ 952. **Board of trustees, how appointed.** Such institution shall be under the supervision of a board of trustees consisting of five members, who shall be appointed by the governor by and with the advice and consent of the senate. At each biennial session of the legislative assembly the governor shall nominate and, by and with the advice and consent of the senate, appoint for the term of four years, trustees to fill vacancies occurring by the expiration of the term of office of those previously appointed, and the governor shall have power to fill all vacancies in the board which occur when the legislative assembly is not in session, and the members of such board shall hold their office for the term of four years commencing on the first Tuesday in April succeeding their appointment, and until their successors are appointed and qualified, except members appointed to fill vacancies during the recess of the legislative assembly, which members shall hold only until the first Tuesday in April succeeding the next regular session of the legislative assembly. § 2. c. 161, 1880. am'd.

§ 953. **Organization. Meetings.** Such trustees shall meet in the city of Devils Lake. They shall choose from among their number a president and secretary, who shall hold office for two years, and until their successors are appointed and qualified. Three members of the board shall constitute a quorum for the transaction of business. § 3. c. 161, 1880. am'd.

Such board shall meet annually in the month of April and as often thereafter as may be deemed necessary for the proper transaction of business, upon the call of the president or secretary.

§ 4, c. 161, 1890, am'd. **§ 954. Oath. Duties of officers of board.** Each member of the board shall before entering upon his duties take and subscribe the oath required of other civil officers, which oath shall be filed in the office of the secretary of state. The president shall preside at all meetings of the board when present and in his absence a president pro tempore may be named to perform the duties of president. The secretary shall keep a correct record of the proceedings of the board and have charge, in trust for the institution, of all papers and records of the same.

§ 5, c. 161, 1890. **§ 955. Board to direct disposition of moneys.** The board shall direct the disposition of all moneys appropriated by the legislative assembly or received from any other source for the benefit of such institution.

§ 6, c. 161, 1890, 2, c. 123, 1893, am'd. **§ 956. Duties of board.** Such board shall have general supervision of the institution, adopt rules for the government thereof, employ and fix the salaries of all employees, provide necessaries for the institution and perform other duties, not devolving upon the principal, necessary to render it efficient and to carry out the provisions of this article.

§ 7, c. 161, 1890. **§ 957. Indebtedness limited.** The board shall not create any indebtedness against such institution exceeding the amount appropriated by the legislative assembly for the use thereof.

§ 8, c. 161, 1890, 3, c. 123, 1893. **§ 958. Compensation of members of board.** The members of the board shall receive as compensation for their services three dollars per day for each day employed, and five cents per mile for each mile actually and necessarily traveled in attending meetings of the board, to be paid out of the state treasury upon vouchers of the board duly certified by the president and secretary thereof.

§ 9, c. 161, 1890. **§ 959. Fee for nonresident children.** Deaf and dumb children, not residents of this state, of suitable age and capacity, shall be entitled to an education in such school on payment to the state treasurer of the sum of one hundred and eighty dollars per annum, in advance, but such children shall not be received to the exclusion of children of this state.

§ 10, c. 161, 1890. **§ 960. Residents entitled to education free.** Each deaf and dumb person, who is a resident of this state, of suitable age and capacity, shall be entitled to receive an education in such institution at the expense of the state.

§ 11, c. 161, 1890. **§ 961. Deaf to be reported to principal of school.** The assessors in each county shall annually report to the county auditor the names, ages, post office address and names of parents or guardian of each deaf and dumb person between the ages of five and twenty-five years residing in his district, including all such persons as may be too deaf to acquire an education in the common schools. Such county auditor shall, on or before the first day of August in each year, send a list containing the names, ages and residences of all such persons to the principal of the school.

§ 12, c. 161, 1890. **§ 962. Accounts for clothing, how collected.** When the pupils of such institution are not otherwise provided or supplied with suitable clothing, they shall be furnished therewith by the principal, who shall make out an account thereof in each case against the parent or the guardian, if the pupil is a minor, and against the pupil if he

has no parent or guardian or if he has attained the age of majority; which account shall be certified to be correct by the principal, and when so certified such account shall be presumed correct in all courts. The principal shall thereupon transmit such account by mail to the county treasurer of the county from which the pupil so supplied shall have come; and such treasurer shall proceed at once to collect the amount by suit in the name of his county, if necessary, and pay the same into the state treasury. The principal shall at the same time remit a duplicate of such account to the state auditor, who shall credit the same to the account of the school and charge it to the proper county; provided, that if it shall appear by the affidavit of three disinterested citizens of the county, not of kin to the pupil, that such pupil or his parents would be unreasonably oppressed by such suit, then such treasurer shall not commence such action, but shall credit the same to the state on his books and report the amount of such account to the board of county commissioners of his county, which board shall levy a sufficient tax to pay the same to the state and cause the same to be paid into the state treasury.

**§ 963. Transportation of indigent persons, how paid.**

The board of county commissioners shall order to be paid the expenses of transportation to and from such institution of any indigent deaf and dumb children entitled to admission thereto, and they shall at the time of levying other taxes, levy a tax sufficient to reimburse the county therefor. In order to avoid long delay in transporting indigent children to and from the institution, the principal may, upon correspondence with the auditor of such county, pay such transportation and forward to such county auditor an itemized statement of the expenses. The board of county commissioners shall order the county treasurer to draw his warrants for such amount in favor of the principal of the institution, who shall account for such money as provided by law.

*13. c. 161, 1890.  
4. c. 123, 1893.  
am'd.*

**§ 964. Faculty. Duties of principal.** The officers of the institution shall be a principal and a matron. The principal shall be a capable person, skilled in the sign language and all the methods in use in educating the deaf, and shall have knowledge of the wants and requirements of the deaf in their proper training and instruction. The principal and matron must reside at the institution. The principal shall receive a salary of not less than fifteen hundred dollars per annum. The principal shall annually make to the board of trustees a written report stating in full the true condition of the educational, the domestic and the industrial departments of the institution and his action and proceedings therein, which report shall be embraced in the report of the trustees to the governor. He shall keep and have charge of all necessary records and registers of each department and have the supervision of teachers, pupils and servants and perform such other duties as the board may require. He may recommend and with the approval of the board employ all assistants needed therein. He shall have special charge of the male pupils, out of school hours, and shall furnish them with employment about the premises or in some trade to which they are adapted when such trades have been organized and established at the institution by the trustees and provision for their maintenance made by the legislative assembly. The proceeds and products arising from the labor and employment of the pupils shall inure to the use and benefit of the institution.

*14. c. 161, 1890.  
5. c. 123, 1893.  
am'd.*

§ 15, c. 161, 1890.  
am'd.

**§ 965. Duty of matron.** The matron of the school shall have control of the internal arrangement and management of the institution and of the female pupils, out of school hours. She shall instruct the female pupils in the domestic arts or in some trade to which they are adapted, under the direction of the principal.

§ 16, c. 161, 1890.

**§ 966. Board to make biennial reports.** The board of trustees shall on or before the fifteenth day of November preceding each regular session of the legislative assembly make a full and complete report to the governor, showing:

1. A statement of the financial condition of the institution from the date of the last report, giving in detail the amount of moneys received from all sources and the amount expended.

2. The value of real estate and buildings at the date of the last report and the cost of improvements made, if any, since such report.

3. The number of pupils in attendance, their names, ages, residences, and cause of deafness; also the number that have entered the institution, and the number of those who have left since the last report.

4. The number and cause of deaths if any, which have occurred in the institution since the last report.

5. The improvement, health and discipline of the pupils.

6. The names of the officers, teachers and servants employed.

7. All other needful information touching such matters as may be deemed of interest.

8. Such recommendations as may be deemed needful.

#### ARTICLE 6. — BLIND ASYLUM.

§ 1, c. 24, 1895.

**§ 967. Location and government.** There is hereby established and located at Bathgate in Pembina county, a blind asylum, which shall be known by the name of the North Dakota Blind Asylum. The government and management of said asylum is hereby vested in a board of trustees consisting of five members, which shall be styled the Board of Trustees of the North Dakota Blind Asylum.

§ 2, c. 24, 1895.

**§ 968. Trustees, how appointed. Length of term.** The members of the board shall be nominated by the governor, and, by and with the advice and consent of the senate, shall be appointed on or before the third Monday of February of each biennial session of the legislative assembly, for a period of four years from said date; provided, however, that the first board of trustees shall be appointed by the governor at once upon the taking effect of this act; and provided, further, that the terms of the first board shall be, three members for the period of four years, and two members for the period of two years, the length of the term of the respective trustees to be designated by the governor in making the appointments. Such appointments shall be made by and with the advice and consent of the senate, when the legislative assembly is in session; otherwise the trustees appointed shall qualify and hold office until their successors are appointed and qualified. The governor shall have power to fill all vacancies which may occur in said board when the legislative assembly is not in session, and the members of said board shall hold their office until their successors are appointed and qualified as provided herein.

§ 3, c. 24, 1895.

**§ 969. Organization of board. Quorum.** The governor shall cause to be issued to each of said trustees a commission, which

shall be under the great seal of the state. At the first meeting of said board the members thereof shall take and subscribe the oath of office required of all civil officers and shall then proceed to elect a president, secretary and treasurer, but the treasurer need not be a member of the board. A majority of the trustees shall constitute a quorum for the transaction of business. The board shall require a bond of its treasurer and fix the amount thereof.

**§ 970. Meetings of board. Compensation.** The board shall hold its meetings at Bathgate and fix the time of holding the same; provided, there shall not be to exceed twelve regular meetings in each year. The members of the board shall receive as compensation for their services three dollars per day for each day employed, not to exceed twenty-four days in any one year, and five cents per mile for each mile actually and necessarily traveled in attending the meetings of the board, which sum shall be paid out of the state treasury on the vouchers of said board; provided, that until such time as the legislative assembly shall make an appropriation for the construction and maintenance of such asylum, or until there shall be derived from the interest on the proceeds of sales of or rents derived from the thirty thousand acres appropriated for this asylum, sufficient funds to construct and maintain such asylum, the sum of five thousand dollars, the trustees appointed under this act shall receive no compensation whatever, nor shall they issue their warrant upon the state treasury for any purpose whatever. §§ 4.5, c.24, 1895.

**§ 971. Proceeds from land grant.** The thirty thousand acres of land donated by congress for the purpose of such blind asylum and appropriated by the constitution of this state therefor, and all moneys received from the interest and income derived from the sales of such lands or rents derived from the leasing of such lands, are hereby appropriated for the construction and maintenance of said asylum. § 6. c. 24, 1895.

**§ 972. By-laws and rules of regulation.** The board shall direct the disposition of all moneys appropriated by the legislative assembly or the interest on all moneys that may be derived from the sale, or the rent derived from the leasing of land donated by congress to this state and by the constitution of the state appropriated for such asylum, and shall have supervision and charge of the construction of all buildings provided for or authorized by law for said asylum. Said board shall have power to enact by-laws and rules for the regulation of all its concerns not inconsistent with the laws of this state, to see that its affairs are conducted in accordance with the requirements of law; to provide employment and instruction for the inmates; to appoint a superintendent, a steward, a matron, a teacher or teachers, and such other officers as in its judgment the wants of the institution may require, and prescribe their duties; to exercise a general supervision over the institution, its officers and inmates, fix the salaries to be paid to the officers and to order their removal, upon good cause. § 7. c. 24, 1895.

**§ 973. Reports, when made.** The board shall make a report to the governor on or before the last Monday in December next preceding each biennial session of the legislative assembly, containing a financial statement showing the condition of all funds appropriated for the asylum; also the money expended and the purpose for which the same was expended in detail; also showing the condition of the institution generally. § 8. c. 24, 1895.

## ARTICLE 7.—INDUSTRIAL SCHOOL.

- § 1. c. 125, 1893.  
am'd.     **§ 974. Location of school.** The industrial school as established and located at the city of Ellendale in Dickey county, shall continue to be an industrial school and a school for manual training. Such school shall be governed by a board of trustees consisting of three members to be appointed as prescribed in the next section.
- § 2. c. 125, 1893.  
am'd.     **§ 975. Appointment of board. Duties. Bond.** At each biennial session of the legislative assembly, the governor shall nominate, and, by and with the advice and consent of the senate, appoint a board of trustees for such school consisting of three members, who shall take charge and control of all funds in any manner accruing to the benefit or for the use of such school. Each member of such board shall qualify by taking and subscribing the oath required of other civil officers and giving a bond in such sum and with such sureties as the governor may require. They shall hold their office for the term of two years commencing on the first Tuesday of April succeeding their appointment and until their successors are appointed and qualified.
- § 3. c. 125, 1893.     **§ 976. Industrial school fund.** All funds arising from the sale, lease or use of the lands granted to such school, and the interest arising from the use or deposit of such funds, shall be kept and maintained for the purpose of creating an industrial school fund.
- § 4. c. 125, 1893.     **§ 977. Fund to be kept separate.** Such fund shall be kept as a separate fund by the state treasurer, together with its increase, and shall be paid out only in the manner hereinafter provided.
- § 5. c. 125, 1893.     **§ 978. Board may receive donations.** The board shall have power to receive all donations, gifts and bequests that may be offered or tendered to or for the benefit of such school, and shall on its order expend the money accumulated for the purposes herein provided for.
- § 6. c. 125, 1893.     **§ 979. Donations, how disposed of.** The board shall account to the governor at least once in each year for all donations, gifts and bequests tendered and received, and all moneys coming into the hands of such board shall be immediately covered into the state treasury to the credit of the industrial school fund.
- § 7. c. 125, 1893.     **§ 980. Work on building, when commenced.** Whenever a sum not less than twenty-five thousand dollars shall have accumulated for the benefit of such school, the board may, after advertising for at least six weeks in a newspaper published at the seat of government and also in the county where such institution is located, let to the lowest responsible bidder a sufficient amount of work on the building herein contemplated to exhaust such sum, and may thereafter do likewise with any sum of not less than ten thousand dollars, until further provision shall have been made by the legislative assembly.
- § 8. c. 125, 1893.     **§ 981. Building, cost of.** Within two months after the appointment of the board herein provided for, it shall meet and determine the style, size and material of the building to be constructed, but in no case shall such building cost when completed a sum exceeding one hundred and fifty thousand dollars.
- § 12. c. 125, 1893.  
am'd.     **§ 982. Grant of site.** This article shall become the law when a site for the school herein provided for shall have been granted absolutely to the state by the citizens of Ellendale, such site to contain not less than forty acres, and the selection and approval of the same shall be made by the board of trustees.



§ 983. **Deed of site.** When the site as herein provided for shall have been selected and approved, the deed for the same shall be filed in the office of the secretary of state. § 11, c. 125, 1893.

ARTICLE 8. — STATE HOSPITAL FOR THE INSANE.

§ 984. **Location of.** The state hospital for the insane as now established and located at Jamestown in the county of Stutsman, shall continue to be the hospital for the insane of this state, and shall be known by the name of "State Hospital for the Insane." § 1, c. 68, 1835. am'd.

§ 985. **Board of trustees, appointment of. Vacancies.** Such hospital shall be governed by a board of trustees consisting of five members to be appointed by the governor as hereinafter provided, and the term of office of such trustees shall be four years, except as hereinafter provided, and shall commence on the first Tuesday of April next succeeding their appointment. The governor at each regular session of the legislative assembly shall nominate and, by and with the advice and consent of the senate, appoint the trustees of such hospital in the place of those whose terms shall thereafter first expire, and such trustees shall hold their offices until their successors are appointed and qualified. The governor shall fill all vacancies in the board by appointment to extend to the first Tuesday of April succeeding the next regular session of the legislative assembly and at such session the governor shall nominate and, by and with the advice and consent of the senate, appoint some person to fill the vacancy for the remainder of the term. Not more than two members of the board shall be appointed from the same county. § 1, c. 68, 1835. am'd. § 1, c. 93, 1889.

§ 986. **Sessions of board. Compensation of trustees.** The sessions of the board shall be held at the hospital and shall not in any one year exceed twenty-four days in the aggregate, but the governor may, when deemed necessary, authorize additional sessions. Each trustee shall receive three dollars per day for each day necessarily employed in attendance upon sessions of the board and all necessary traveling expenses incurred therein, to be paid on the presentation of proper vouchers containing an itemized statement of the number of days' attendance and the money actually expended as above provided, duly verified by his oath and approved by the president or secretary of the board; and the state auditor shall audit such claims and draw his warrant upon the state treasurer for the amount so allowed. §§ 3, 4, c. 93, 1889. am'd.

§ 987. **Bond and oath of trustees.** Each trustee shall, before entering upon the duties of his office, execute a bond to the state in the sum of five thousand dollars with two or more sureties to be approved as provided in section 342, conditioned for the faithful and impartial performance of his duties as such trustee; and he shall take and subscribe an oath to be indorsed upon his bond, which oath shall be the same as that required of other civil officers. § 1, c. 93, 1889.

§ 988. **Object of hospital.** The object of such hospital shall be to receive and care for all insane persons residing within the state who may be committed to its care in accordance with the provisions of this article, and to furnish all needed medical treatment, seclusion, rest, restraint, attendance, amusement, occupation and support which may tend to restore their health and recover them from insanity or to alleviate their sufferings. The board of trustees shall have power to discharge patients and to refuse additional applications for admis- § 3, c. 68, 1835. am'd.

sion to such hospital when in its judgment the interests of the patients demand such discharge or refusal; and in the admission and retention of patients, curables and recent cases shall have preference over cases of long standing, and violent, dangerous or otherwise troublesome cases shall have preference over those of an opposite description.

§ 4, c. 68, 1885.

**§ 989. Trustees may take lands.** The board of trustees may take in the name of the state and hold in trust for the hospital any lands conveyed or devised, and any money or personal property given or bequeathed to be applied for any purpose connected with such institution; but it shall not have power to bind the state by any contract beyond the amount of the appropriation which may at the time have been made for the purpose expressed in the contract, nor to sell or convey any part of the real estate belonging to such hospital without the consent of the legislative assembly, except that it may release any mortgage or convey any real estate which may be held by it as security for any money or upon any trust, the terms of which authorize such conveyance. No trustee or officer of the hospital shall be either directly or indirectly interested in any contract for the purchase of building material, supplies or other articles for the use of the institution. The board shall provide and keep a seal upon which shall be inscribed the name of the hospital with such other words and devices as they may deem appropriate.

§ 6, c. 68, 1885, am'd.

**§ 990. Officers of board.** The board of trustees shall elect a president and secretary from its own number, whose term of office shall be one year and until their successors are elected and qualified. The board shall keep a record of its proceedings at all meetings in a book to be kept for that purpose; and at its annual meeting next preceding the biennial session of the legislative assembly it shall make a report to the governor of the condition and wants of the hospital, which shall be accompanied with a full and accurate report of the superintendent, showing the annual cost per capita of the inmates, and the per cent of discharges and recoveries, together with a detailed account of all moneys received and paid out; five hundred copies of which report shall be printed.

§ 7, c. 68, 1885, am'd.

**§ 991. Meetings of the board.** The annual meeting of the board shall be held on the first Wednesday of September. Special meetings for the appointment or removal of officers, or for the transaction of general business may be held upon the written request of the president or of any three members of the board. Three members of the board shall constitute a quorum for the transaction of business.

§ 8, c. 68, 1885, 1. c. 132, 1891, am'd.

**§ 992. Powers and duties of board.** The board of trustees shall have general control and management of the hospital and shall make all by-laws, rules and regulations necessary for the government of the same not inconsistent with the laws of the state. It shall appoint a superintendent, who must be a physician of acknowledged skill and ability, a graduate of a reputable medical college and a person possessing a good moral character. It shall, when the superintendent shall deem such appointment necessary, appoint one or more assistant physicians, who shall possess like skill and ability and be graduates of a reputable medical college; also a steward and matron, all of whom shall be styled the resident officers of the hospital, and who shall reside therein and be governed by the laws and by-laws of such institution. The annual salaries of the resident officers shall be as follows: Superintendent, two thousand five hun-

dred dollars; steward, twelve hundred dollars; first assistant physician, twelve hundred dollars; matron, five hundred dollars; and the salaries of other assistant physicians shall be fixed and regulated by the board of trustees according to length and quality of service, not exceeding one thousand dollars per annum for each.

§ 993. **Monthly visits by one trustee.** One or more of the trustees shall visit the hospital monthly, and the president of the board, with the superintendent, shall make monthly examinations of the accounts of the steward and certify their approval on the same page with his monthly balance. § 9, c. 68, 1885.

§ 994. **Superintendent. Bond and oath.** The superintendent of the hospital shall, before entering upon the duties of his office, give a bond to the state in the penal sum of twenty-five hundred dollars, conditioned for the faithful and impartial discharge of the duties of his office according to law, and the by-laws of such hospital, to be approved by the board, and take and subscribe an oath faithfully and diligently to discharge the duties required of him by law and the by-laws of the board of trustees. He shall be the chief executive officer of the hospital and shall have the entire control of the medical, moral and dietetic treatment of the patients; he shall employ all employees and assistants necessarily connected with the institution below the grade designated as officers in section 992, and he may discharge any such employee at will and suspend any resident officer of the hospital, except the steward, being responsible to the board for the proper exercise of that power. § 10, c. 68, 1885. am'd.

§ 995. **Duties of steward.** The steward shall keep the accounts, pay those employed in and about the hospital, and have personal superintendence of the farm, garden and grounds, and perform such other duties as may be assigned him by the by-laws, under the direction of the board of trustees; he shall purchase all supplies for the hospital wherever the best grade of articles in suitable quantities can be purchased at the lowest price, and, so far as practicable, in large rather than in small quantities; and shall, if in his judgment it can be done to advantage, advertise for proposals for staple articles and make contracts for the furnishing of the same in bulk or in quantity as may be needed for use. § 11, c. 68, 1885.

§ 996. **New buildings.** Whenever any additional building is erected or extensions, alterations or repairs are to be made in connection with such hospital, the board of trustees shall have authority to procure all necessary plans, drawings and specifications for such buildings, alterations or repairs; to advertise for proposals for the erection and completion thereof and to accept such bid as may seem to it most advantageous, the contractor in each case to give adequate security for the faithful performance of his contract; to appoint and fix the compensation of a building superintendent who shall superintend the work and perform such other duties in that respect as the board may require, and to discharge him; also to examine and certify to the correctness of his estimates and accounts for work under the contract, and of the superintendent and the employees. § 13, c. 68, 1885.

§ 997. **Appropriations not to be diverted.** No portion of any special appropriation for the erection of any building or for the doing of any work or for any purpose other than ordinary expenses, shall be drawn from the state treasury in advance of the work done or the materials furnished, and only upon proper estimates thereof § 14, c. 68, 1885.

approved by the trustees, and no portion of any appropriation for any purpose shall be drawn from the treasury before it shall be required for the purpose for which it is made, and no appropriation which is or may be made for one purpose shall be drawn or used for any other purpose, and if at any time hereafter the sum appropriated by the legislative assembly for any specific purpose shall be found insufficient to complete and accomplish the purpose for which such appropriation is made, then no part of the sums so appropriated shall be expended or drawn from the treasury, nor shall any liability on the part of the state be created on account of such appropriation.

§ 15, c. 68, 1885.  
am'd.

**§ 998. Patients.** All patients of the hospital who are residents of this state shall receive their board and treatment free of charge. The residents of other states or territories may be admitted to the hospital upon the payment of the first cost of such board and treatment as provided by the by-laws adopted by the board of trustees; provided, that no resident of another state or territory shall be received or retained to the exclusion of any resident of this state; and provided, further, that should any patient be unwilling to accept gratuitous board and treatment, the superintendent is authorized to receive pay therefor, and is required to account for the same in an itemized monthly statement to the board of trustees as donations, to be duly credited to the persons from whom they were received, and if the superintendent shall receive any money for the purpose of furnishing extra attention and comforts to any patient he shall account for the same and for the expenditure in like manner.

§ 23, c. 23, 1879.

**§ 999. Care of patients to be impartial. Exceptions.** All patients in the hospital shall be regarded as standing on an equal footing; and the several patients, according to their different conditions of mind and body and their respective needs shall be provided for and treated with equal care; provided, that if the relatives or immediate friends of any patient shall desire it and pay the expenses thereof, such patient may have special care and may be provided with a special attendant, as may be agreed upon with the superintendent. In such cases, the charges for such special care and attendance shall be paid quarterly in advance. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of any such patient therein, and the superintendent shall cause the account of such patient to be credited with any sums so paid.

§ 32, c. 23, 1879.

**§ 1000. Preference given in receiving patients.** If at any time it becomes necessary for want of room or other cause, to discriminate in the general reception of patients into the hospital, a selection shall be made as follows:

1. Cases of less than one year's duration.
2. Chronic cases of more than one year's duration, presenting the most favorable prospects for recovery, shall be next preferred.
3. Those for whom application has been longest on file, other things being equal, shall be next preferred.
4. When cases are equally meritorious in all other respects, the indigent are to be preferred.

§ 36, c. 23, 1879.  
am'd.

**§ 1001. Proceedings when patient escapes from hospital.** If any patient shall escape from the hospital the superintendent shall cause immediate search to be made for such patient and if such patient cannot be found he shall cause notice of such escape to be forthwith given to the commissioners of insanity of the

county where the patient belongs; and if such patient is found in such county the commissioners shall cause him to be returned and shall issue their warrant therefor as in other cases, unless the patient shall be discharged.

§ 1002. **Discharge of patients when cured.** Any patient who is cured shall be immediately discharged by the superintendent. Upon such discharge the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing and a sum of money not exceeding twenty dollars, which shall be charged with the other expenses of such patient in the hospital. The relatives of any patient not susceptible of cure and not dangerous to be at large, shall have the right to take charge of and remove such patient on consent of the board of trustees, and during the interim between the meetings of the board the consent of two of the trustees shall be sufficient. § 37, c. 23, 1879.

§ 1003. **Discharge of patients before cure.** On application of the relatives or immediate friends of any patient in the hospital who is not cured and who cannot be safely allowed to go at liberty, the commissioners of insanity of the county where such patient belongs, on making provision for the care of such patient within the county as in other cases, may authorize his discharge therefrom; provided, that no patient who is under charge or conviction of homicide shall be discharged without the order of the board of trustees. § 38, c. 23, 1879.

§ 1004. **Discharge of patient without application.** When any patient is discharged from the hospital by the authorities thereof, without application therefor, notice of the order of discharge shall at once be sent to the commissioners of insanity of the county where he belongs and the commissioners shall forthwith cause him to be removed and shall at once provide for his care in the county, as in other cases, unless such patient is discharged as cured. And if the commissioners of insanity of such county fail or neglect to take and remove such patient so discharged within thirty days from the date of the order discharging him and of the notice of the order so sent, such county shall be liable for and pay to the state the sum of two dollars per day for the care and keeping of such patient at the hospital during the time commencing at the expiration of thirty days after the date of such order and notice. It shall be the duty of the superintendent of the hospital to report all such delinquencies and the time of any patient so kept beyond such period of thirty days, giving the name thereof, the county where such patient belongs, the amount due from such county for such charge, to the governor, for the year ending on the thirtieth day of June each year. It shall be the duty of the state board of equalization to include and charge such amount so reported to each county so named, and the same shall be included and made a part of the tax levied against such county, in addition to the amount so levied by such board for state purposes. § 39, c. 23, 1879. § 1, c. 66, 1887. am'd.

§ 1005. **Attorney general to bring suit, when.** Upon the report of the superintendent provided for in the preceding section, it shall be the duty of the attorney general to bring an action against the county so indebted, for the amount due the state, and any judgment obtained in such action may be enforced as other judgments against counties are enforced. § 2, c. 66, 1887.

§ 1006. **Superintendent not responsible for reception of patient, when.** The warrant of the commissioners of insanity authorizing the admission of any person to the hospital as a patient, accompanied by a physician's certificate as provided by law shall § 43, c. 23, 1879.

operate to shield the superintendent and other officers of the hospital against all liability to prosecution of any kind on account of the reception and detention of such persons in the hospital; provided, such detention shall be otherwise in accordance with the laws and by-laws regulating its management.

§ 44. c. 23, 1879.

§ 1007. **Hospital seal to be affixed.** The superintendent shall affix the seal of the hospital to each notice, order of discharge, report or other paper required to be given or issued by him.

§ 46. c. 23, 1879.

§ 1008. **Board to furnish blanks to commissioners of insanity.** The board of trustees of the hospital shall provide the commissioners of insanity of each organized county with such blanks as may be necessary to enable them to comply with the provisions of this article, and also with a copy of the by-laws of the hospital, when printed.

ARTICLE 9. — SOLDIERS' HOME.

§ 1. c. 165, 1890.  
am'd.

§ 1009. **Location of.** The soldiers' home as located and established at the city of Lisbon in the county of Ransom, shall continue as such at said place.

§ 2. c. 165, 1890.  
1. c. 121, 1893.

§ 1010. **Objects of.** The object of the soldiers' home shall be to provide a home and subsistence for all honorably discharged soldiers, sailors and marines who have served in the army or navy of the United States, and who are disabled by disease, wounds, old age or otherwise, and their wives and widows.

§ 2. c. 165, 1890.  
1. c. 121, 1893.

§ 1011. **Who may be admitted.** No applicant shall be admitted to such home who has not been a resident of this state at least one year next preceding his application for admission therein, unless he served in a Dakota regiment or was accredited to the territory of Dakota.

§ 3. c. 165, 1890.

§ 1012. **Granted lands and funds pledged.** All lands which have been or may be hereafter granted by the United States or by this state for a soldiers' home are hereby set apart for the support of such home, and all the proceeds from the sales of such lands are hereby pledged as a perpetual fund for the use and benefit of such home.

§ 5. c. 165, 1890.  
2. c. 121, 1893.  
am'd.

§ 1013. **Board of trustees, how appointed.** The general supervision and government of the home shall be vested in a board of five trustees to be styled "The Board of Trustees of the Soldiers' Home," each member of which shall have served in the army or navy of the United States, and who shall be appointed by the governor by and with the advice and consent of the senate, no two of whom shall be from the same county, except the county wherein the institution is located, from which at least two of the members shall be appointed. The members of the board shall hold their office for the term of two, three, four and five years respectively, except the chairman of the board who shall hold his office for one year only. The time for which each member shall hold his office shall be designated in his certificate of appointment; provided, that when not otherwise incompetent, in the opinion of the governor, the commander or chief officer of the organization known as the Grand Army of the Republic, shall be appointed as chairman of such board, and the appointment of such chairman shall be made each year immediately after his election by such organization, without the advice or consent of the senate. The compensation of the trustees shall be three dollars per day each for not exceeding twenty-four days in any one year and their necessary expenses while performing the duties of their office.

**§ 1014. Oath and bond of trustees.** Before entering upon the duties of his office each member of the board shall take and subscribe the oath required of other civil officers and execute a bond to the state in the sum of three thousand dollars with two or more sureties, to be approved by the governor, conditioned for the faithful performance of his duties and the honest and faithful disbursement of and accounting for all moneys which may come into his hands under the provisions of this article, which bond and oath shall be filed in the office of the secretary of state. § 6, c. 165, 1890.

**§ 1015. Meetings of board. Reports.** It shall be the duty of the board to meet annually on the first Tuesday in June, and at such meeting it shall elect a secretary whose compensation shall be determined by the board and who shall hold his office for one year or until his successor is elected and qualified. The board shall have four regular meetings in each year and not to exceed two special meetings, and may adopt a seal and make rules and regulations not inconsistent with the constitution of the United States or of this state for the management and government of such home, including such rules as it shall deem necessary for the preservation of order, enforcing discipline and preserving the health of its inmates. The board shall annually make full and detailed reports of the disbursements of the home and its condition, financial and otherwise, to the governor and to each regular session of the legislative assembly. § 10, c. 165, 1890.

**§ 1016. Commandant and subordinate officers. Qualifications.** Such board shall have the power and it shall be its duty to appoint a commandant for said home who shall serve during the pleasure of the board and who shall be one who was honorably discharged from the military or naval service of the United States, who served in the war of the Rebellion, whose salary shall not exceed twelve hundred dollars per annum, and who shall nominate, subject to the approval of the board, all necessary subordinate officers who shall all be persons either honorably discharged from the service of the United States or widows of honorably discharged soldiers. Such subordinate officers may be removed by the commandant for inefficiency or misconduct, but in case of removal he must make a detailed statement of the cause thereof to the trustees and the board shall have the power to reinstate such persons. The compensation of the subordinate officers shall be fixed by the board. § 11, c. 165, 1890. am'd.

**§ 1017. Funds, how kept.** All moneys that may arise from the interest received on all money derived from the sale of lands appropriated for such home, including all money received from the rental of such lands, and all moneys hereafter appropriated for such home by this state and all money received from other sources shall be deposited with the state treasurer, to be by him transmitted at least once in every sixty days to the institution treasurer, if he shall have qualified as provided by law, and such money when received by such institution treasurer shall be used exclusively for the benefit of such home as provided by law. § 13, c. 165, 1890. § 3, c. 121, 1893.

**§ 1018. Majority of board to approve contracts, etc.** Every contract to be performed by the board must receive the approval of a majority of the trustees in regular session, in order to be valid. All proceedings of the board shall be recorded in a book to be kept for that purpose and open to the inspection of any person on request. § 14, c. 165, 1890.

§ 1. c. 104, 1895. § 1019. **Governor to accept grant.** The governor is empowered and directed to accept for the state the conditions imposed, by an act of congress, entitled "An act to provide aid to state or territorial homes for the support of disabled soldiers and sailors in the United States, approved Aug. 27th, 1888." He is further directed to send to the president of the board of managers of the national home for disabled volunteer soldiers a copy of all laws bearing upon the establishment, regulation and maintenance of the soldiers' home at Lisbon, with all printed regulations, relating to the management of the home now in force, together with a copy of this and the next section.

§ 2. c. 104, 1895. § 1020. **Auditor to receipt for money.** The state auditor is empowered to receive and receipt for any and all money which may become due to the state by reason of said act and to turn the same into the state treasury for the use and benefit of the state soldiers' home, to be disbursed and accounted for in the same manner as other money appropriated out of the treasury for such home.

## CHAPTER 11.

### GENERAL PROVISIONS RELATING TO PUBLIC INSTITUTIONS.

#### ARTICLE 1.—FLAGS TO BE DISPLAYED.

§ 1. c. 69, 1890. § 1021. **Flags displayed on public institutions.** The flag of the United States shall be displayed upon all state institutions between the hours of nine o'clock A. M. and four o'clock P. M. of each day.

§ 2. c. 69, 1890. § 1022. **Expenses, how paid.** It is the duty of the officials in charge of the various state institutions to make the necessary arrangements for carrying out the provisions of the preceding section and the expenses necessarily incurred in so doing shall be audited and paid by the state auditor in the same manner as bills for incidental expenses are audited and paid.

#### ARTICLE 2.—EXPENDITURES AND TRANSFER OF FUNDS.

§ 1. c. 23, 1895. § 1023. **Excessive expenditures prohibited. Emergency.** It shall be unlawful for any board of trustees, commissioners, directors, person or persons having the control or management of public institutions of the state, or having in any manner whatsoever the responsibility of disbursing or expending any money appropriated by the state, either directly or indirectly, or in any manner whatsoever to expend or to agree or contract to expend for the use or benefit of any institution or purpose any amount in excess of the sum appropriated for such institution or purpose, nor shall any amount appropriated for any specific purpose or fund be used for or transferred to any other purpose or fund; provided, that when in the belief of any such board, person or persons, an emergency exists, and the interests of the state are jeopardized by reason of the exhaustion of the amount appropriated, or by cause for which there is no provision of law, the matter with all relative facts, shall be referred to a commis-



sion consisting of the governor, secretary of state and state auditor, who may authorize the transfer of money from one fund to another fund of the same institution or purpose, or who may in extreme cases authorize money to be drawn from the state treasury to meet the emergency.

§ 1024. **Penalty.** Any board of trustees, commissioners, directors, person or persons violating the provisions of the last section shall be conjointly and individually liable for all amounts so used or transferred and shall forfeit his or their offices. § 2. c. 23, 1895.

§ 1025. **Trustees not to be interested in contracts.** No member of any board of trustees or managers, or any officer or employee of any state, educational, charitable or correctional institution now existing in this state or which may hereafter be established by law shall be interested, directly or indirectly, in any contract, purchase or sale for or on account of, the institution with which he may be connected. § 1. c. 33, 1895.

§ 1026. **Penalty.** Any violation of the preceding section shall be sufficient cause for removal from office. § 2. c. 33, 1895.

ARTICLE 3.—INSURANCE OF PUBLIC BUILDINGS.

§ 1027. **Property to be insured. Governor to approve company.** It shall be the duty of the boards of trustees of the respective state institutions to cause to be insured in such insurance companies as may be approved by the governor, for the benefit of the state, the public buildings and contents under their control respectively, for an amount not to exceed two-thirds of their value; and for that purpose they are authorized to expend such a sum as may be necessary, and upon presenting vouchers therefor to the state auditor it shall be his duty to draw a warrant upon the state treasurer in payment of the sum so expended. § 1. c. 68, 1887.

§ 1028. **Duty of governor.** It shall be the duty of the governor to cause to be insured all other public buildings and their contents belonging to the state, for the benefit of the state, and not to exceed two-thirds of their value and for that purpose the state auditor shall draw his warrant upon the state treasurer in payment of the premiums for such insurance. § 2. c. 68, 1887.

§ 1029. **In event of loss.** In the event of a loss occurring under any policy upon any public building or the contents insured under the provisions of the last two sections, the money received from the insurance shall be used and expended by the governor or board of trustees, as the case may be, in the erection or repair of the building upon the site of the one injured or destroyed and replacing the contents, and such building shall be occupied and used for the same purposes as the one damaged or destroyed. Policies issued under the provisions of the two preceding sections shall run in the name of the state and shall be for a term of three years. § 3. c. 68, 1887.

ARTICLE 4.—LIGNITE COAL TO BE USED.

§ 1030. **Public institutions to use.** The various state institutions, county buildings and public schools of this state shall use for fuel native or lignite coal, and it shall be unlawful for any officer to purchase for use in such institutions, county buildings and public § 1. c. 44, 1891. § 1. c. 38, 1883. am'd.

schools any coal other than that taken from the mines within the boundaries of this state. This section shall not be construed, however, as prohibiting the use of wood at such institutions, county buildings and public schools, when the cost thereof does not exceed that of native coal.

## CHAPTER 12.

### FIREMEN'S ASSOCIATION.

- § 1. c. 65, 1893.  
am'd.     **§ 1031. Appropriation for.** There is annually appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one thousand dollars for the use and benefit of the North Dakota Firemen's Association for the purpose of promoting the efficiency and growth of its different departments, and the holding of an annual tournament according to the rules and regulations of such association. Such money shall be paid to the treasurer of such association and by him paid out only on the order of the president and secretary of such association, for the purposes herein mentioned.
- § 2. c. 65, 1893.     **§ 1032. Report of officers.** The president, secretary and treasurer of such association, shall, within thirty days after the termination of each tournament, make to the state auditor a full and complete report, duly verified by the secretary, of the disposition of all moneys received by such association from the state.
- § 3. c. 65, 1893.     **§ 1033. Tournament. Payment of appropriations.** The time and place at which such tournament is to be held shall be determined at the annual state convention of such firemen's association; the name of which place with the date of tournament, shall be forwarded at least thirty days prior to the holding of such tournament, to the state auditor by the secretary of such association. Such secretary shall also furnish the state auditor with the name and address of the treasurer of such association, and it is the duty of the state auditor to pay to such treasurer, not later than the first day of June of each year, the sum so appropriated, but not, however, until such association shall file with the state auditor a good and sufficient bond in the sum of two thousand dollars, conditioned for the faithful disposition of the funds so appropriated.

## CHAPTER 13.

### STATE LIBRARY.

- § 1034. Secretary of state to have custody.** The secretary of state shall have the care and custody of the state library.
- § 1. c. 166, 1890.  
am'd.     **§ 1035. Secretary to purchase books. Appropriation.** There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of one thousand dollars annually, to be expended by the secretary of state under the direction of the judges of the supreme court in purchasing for the state library such volumes of the supreme court reports, digests and statutes of any state or territory, where such volumes cannot be procured by exchange,

and for the purchase of such other books and documents as may be deemed desirable for such library. Before purchasing such books the secretary of state shall advise with and consult the judges of the supreme court as to what books shall be purchased.

§ 1036. **Appropriation for care and custody.** There is hereby appropriated out of the state treasury the sum of five hundred dollars annually to be expended under the direction of the secretary of state in procuring the services of a competent person as state librarian, whose duties shall be to have the care and custody of such library. § 2, c. 166, 1890.

§ 1037. **Accounts, how paid.** Upon the presentation of verified accounts of the secretary of state for the purchase and cost of transportation of any such volumes and for the care and custody of such library, the state auditor shall draw his warrant on the state treasurer for such amount. § 3, c. 166, 1890.

## CHAPTER 14.

### STATISTICS.

§ 1038. **Assessors to furnish statistics.** It shall be the duty of the several county, township, city and village assessors of this state at the time of listing property for taxation each year to require each person, firm, company and corporation in his assessor district to make a statistical statement of facts relating to agriculture, horticulture, stock raising and such other subjects as may be required by the state statistician, in the manner provided for herein and specified in the instruction, given by the state statistician; and each assessor shall make such other statistical returns, not herein mentioned, as may be required by the state statistician, of and through the county auditor; and each assessor shall make a return of such statements in tabulated form to the county auditor at the time of returning the lists of property for taxation. Such statement shall be made under oath by the persons or by the managers or agents of the firms, companies or corporations, and if any such person refuses or neglects to make such statement under oath, it shall be the duty of the assessor to obtain such information to the best of his ability from neighbors or others that may be supposed to be best prepared to furnish it, which information, so obtained, the assessor shall indicate how procured and whether he has reason to believe the same to be reliable. Each assessor shall make an alphabetical list of the names of the persons refusing to make such statements, with their post office addresses, which list he shall return to the county auditor. § 1, c. 114, 1891. am'd.

§ 1039. **What statistical statement to contain.** The statistical statement mentioned in the foregoing section shall contain, among other things, answers properly classified to the following questions: What is the number of farms, the number of acres cultivated or to be cultivated to crop for the current year, together with the acreage and product, for the year immediately preceding, of wheat, oats, barley, flax, corn, rye, potatoes, cultivated and wild hay and other farm produce. The number of mules, horses, milch cows and other cattle, sheep and hogs subdivided into the breed or classes to which

they belong. The number of pounds of wool clipped, and the dairy products for the past year. The number and kinds of trees grown in cultivated or planted forests; the number of nurseries and the acreage of each; the number and kind of fruit trees, berries and vines, and the orchard products for the preceding year. The male and female population of each county, township, city and village, and the number of blind, deaf and dumb, insane and idiotic in each assessor's district.

§ 4. c. 114, 1891.  
am'd.

**§ 1040. Statistics, how obtained.** Each assessor shall perform the service required of him by a personal visit to each dwelling house and to each family in his township, district, city or village, and shall ascertain by inquiries made of some member of each family, if any one can be found capable of giving the information, but if not, then he shall obtain such information from the most reliable source; and he shall personally visit the farm, shops and other places in the district, respecting which information is required, as specified on the blanks furnished him by the state statistician, and he shall obtain all information from the best and most reliable sources. The county auditor shall furnish to each assessor in his county such blanks as may be necessary for taking such statements, which blanks shall be furnished by the state statistician to the county auditors, together with printed instructions explaining the duties of the assessor in collecting the statistics aforesaid; and the county auditor shall, within thirty days after such statements are returned to him, make out in duplicate a tabular statement thereof, by assessors' districts, properly verified, one copy of which shall be preserved in the office of the county auditor and the other forwarded to the state statistician. In case such statement is not received by the state statistician on or before the fifteenth day of August of any year he shall notify such county auditor in writing of such delinquency and shall cite him to the provisions of this section, and if such auditor refuses or neglects to prepare and forward such statement on or before the fifteenth day of September the state statistician shall report such fact to the attorney general, who shall at once proceed to enforce the penalties provided in section 1042.

§ 5. c. 114, 1891.  
am'd.

**§ 1041. Compensation.** The services herein required of the several assessors shall be performed at the same time that they list property for taxation. They shall not be paid for such services separately but for the time employed in collecting such statistics and for listing property for taxation they shall be allowed and paid as for one and the same service; and they shall be allowed and paid the same per diem for the discharge of the services required herein as is now or shall hereafter be provided for listing property for taxation; provided, that an assessor shall receive no pay for services as assessor, except on presenting a certificate from the county auditor that he has fully complied with the requirements of the foregoing section; and it is the duty of the county auditor when any assessor fails to make proper and complete returns of the statistics required herein, to withhold such certificate until the work is fully and properly completed, and to return forthwith the blanks to such assessor, indicating to him the deficiencies in such statistics and what is needed by way of correction, and shall specify a reasonable time within which such assessor shall fully complete the work and return the same to the county auditor; and it shall be the duty of such assessor immediately to carry out the instructions of such auditor and return the statistics completed, within the time prescribed. In case of his failure to comply with such requirement, such assessor shall forfeit all compensation

and be subject to the penalties prescribed in the next section; and it is the duty of the county auditor to enter complaint against such assessor and the state's attorney of the county shall prosecute the same; and any judgment or penalty so recovered against any such assessor shall be a lien against all real and personal property owned by such assessor. In case any assessor fails to complete such statistics and return the same to the county auditor within the time prescribed, after they have been returned to him by the county auditor with the proper instructions for completion, such county auditor shall appoint some suitable person to collect or complete the statistics for the district, and such appointee shall perform such work as provided in the case of a regularly chosen assessor and shall be entitled to compensation at the same rate to be paid as provided for assessors. The failure of any county auditor to require the complete performance of duty by assessors as herein provided or to enter complaint against any assessor who shall fail to perform his duty as herein provided shall be deemed a misdemeanor and such auditor shall be liable to the penalties prescribed in the next section.

**§ 1042. Penalty for neglect or refusal.** Any assessor or county auditor who shall willfully neglect or refuse in whole or in part to perform the duties required in the foregoing sections, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than twenty nor more than one hundred dollars.

§ 6, c. 114, 1891.  
am'd.

**§ 1043. County auditor to furnish statistics to state statistician.** Each county auditor shall, upon request, furnish to the state statistician such information from the county records regarding the county, its financial condition, products and other statistical information as may be requested, on blanks furnished by the state statistician, and the refusal or neglect of any county auditor to furnish such information within thirty days from the receipt of such request shall be deemed a misdemeanor and shall subject such auditor to the penalties prescribed in the preceding section.

§ 7, c. 114, 1891.  
am'd.

**§ 1044. Duty of state statistician.** The state statistician is hereby required to carry into effect the provisions of the foregoing sections relating to the collection and compilation annually of the statistical data therein mentioned, and he shall cause the returns when received to be arranged, classified and published in the best and most convenient manner in order to exhibit the annual growth and development of each county in the state.

§ 8, c. 114, 1891.

**§ 1045. Expenses to be paid by state.** The expenses incurred in procuring and furnishing the necessary blanks, stationery and postage and compiling and publishing the statistical information herein required, shall be paid by the state treasurer on the warrant of the state auditor, which shall be issued on the presentation of the account of the state statistician duly verified, when approved by the governor.

§ 9, c. 114, 1891.

## CHAPTER 15.

## GREAT SEAL OF THE STATE.

- § 1, c. 149, 1890.    **§ 1046. Great seal.** The seal prescribed in section 207 of the constitution shall be the great seal of the state, and a description in writing of the same shall be deposited and recorded in the office of the secretary of state and remain a public record.
- § 2, c. 149, 1890.    **§ 1047. Dimensions of seal.** Upon every seal of a court or officer of this state required or authorized to have a seal, there shall be engraved the words "State of North Dakota" and the name of the court or office in which the seal is to be used, and all such seals, except the great seal, shall be one and five-eighths of an inch in diameter.
- § 3, c. 149, 1890.    **§ 1048. Temporary seal may be authorized, when.** When any court of record is unprovided with a seal, the judge thereof may authorize the use of any temporary seal or of any device by way of seal until the same is provided as aforesaid.

## CHAPTER 16.

## DEPOSITORY FOR STATE TITLES.

- § 1, c. 199, 1890.    **§ 1049. Deeds and title papers of state deposited, where.** All abstracts and conveyances of title to this state of any lands now owned or hereafter acquired by the state, whether such lands are held for penal, educational, charitable or other institutions or purposes, shall be by those in whose charge such conveyances now are or may come, deposited with and remain in the control of the secretary of state.

## CHAPTER 17.

## HIGHWAYS, BRIDGES AND FERRIES.

## ARTICLE 1. — OPENING AND VACATING HIGHWAYS.

- § 1, c. 29, Pol. C. am'd.    **§ 1050. Public highways defined.** All section lines are public highways as far as practicable, and all existing highways shall continue as such until changed or vacated according to law; but no road traveled or used by one or more persons over another's land shall hereafter become a public highway by use.
- § 3, c. 29, Pol. C. am'd.    **§ 1051. Width of highways.** Public highways along section lines shall be sixty-six feet wide and shall be taken equally from each side of such lines.
- § 44, c. 29, Pol. C.    **§ 1052. Highways between two owners.** Public highways laid out upon a line dividing the lands of two individuals shall be taken equally from the land of each so far as practicable.

§ 1053. **Before whom proceedings brought.** In the opening, vacating or changing of a highway outside of the limits of incorporated cities, villages or towns, all proceedings relating thereto, to acquire right of way and to all other matters connected therewith shall be under the charge and in the name:

1. Of the board of county commissioners, if the county is without a civil township organization, or if the road is in territory not organized into a civil township.

2. Of the board of township supervisors of organized townships.

3. Of the boards of county commissioners of each county in case the road is between or in two or more counties.

4. Of the board of township supervisors of each organized civil township in which any part of the road is situated if the road is situated between two civil townships or in more than one civil township.

5. Of the board of township supervisors of each organized township and of the board of county commissioners in case the road is situated partly in an organized township and partly in an unorganized township.

§ 1054. **Petition for vacating or changing.** Any ten persons owning lands in the vicinity of the highway proposed to be opened, vacated or changed may petition in writing the board having jurisdiction as provided by the provisions of the last section to vacate or change a highway or to lay out a new highway. When the petition is for the vacation or change of a highway or the opening of a new highway upon the dividing line, or in two or more counties or townships, the same course must be pursued as in other cases, except that a copy of the petition must be presented to the board of each county or township which must appoint viewers to act jointly and report to their respective boards the action of such viewers.

§ 1055. **Contents of.** The petition shall set forth and describe particularly the highway to be vacated, changed or opened, and if the same is changed or opened, the beginning, course and termination of the highway proposed to be changed or opened, together with the names of the owners so far as ascertainable, of the lands through which the same passes, whether such of the owners as can be found consent thereto, and if not, the probable cost of the right of way where such consent is not had, the necessity for and the advantages of the proposed road.

§ 1056. **Appointment of viewers.** Upon filing such petition, the board with which the same is filed, must appoint three viewers to view any proposed change of an old or any new road proposed to be opened and submit to the board an estimate of the cost of the change or opening, including the purchase of the right of way and their views of the necessity thereof.

§ 1057. **Qualifications, oath and duties of viewers.** The viewers must be disinterested citizens of the county or township, as the case may be, but not petitioners; they must swear to discharge their duties faithfully and must view and lay out the proposed change or new highway over the most practicable route, notify each resident owner or agent of the land over which it passes of the proposed route, ascertain whether the resident owners consent thereto, and the amount, if any, that they claim or demand for the right of way over the same, estimate the actual damage to any land over which it passes, or the cost of bridges or grading necessary, the necessity for and public con-

venience to be subserved by the highway and whether the opening thereof or change therein proposed should be made.

**§ 1058. Report of viewers.** When the view of the proposed change or new highway is completed, the viewers must report to the board by which they were appointed:

1. The course, termini, length and probable cost of the proposed highway.

2. Their estimate of the damages to the owners of any land over which it is proposed to run the highway.

3. The names of the land owners who consent to give the right of way, and their written consent thereto.

4. The names of the land owners who do not consent and the amount of damages claimed by each, but when there are nonresident land owners and no agent upon the land, upon whom notice can be served, such nonresident land owners must be considered as nonconsenting unless their written consent is obtained.

5. Such other facts bearing upon the subject as it may be important for the board to know.

6. They may also, in their discretion, or by order of the board, report upon the feasibility and cost of any other route than the one petitioned for, which would subserve the same purpose.

**§ 1059. Compensation of viewers.** The viewers must each be paid not to exceed two dollars per day for their services, out of the road fund of the district through which the road passes.

**§ 1060. Hearing. Notice of Service.** The board, at the next meeting after the filing of the report, or at the time when the report is filed, if then in session, must fix a day for hearing the same and notify the owners of the land not consenting to give the right of way, of the hearing, by written notice to be served on them personally, or on the occupant or agent of the owner; or if neither the owner, agent of the owner or occupant, can be so notified by reason of nonresidence or other cause, by posting notices, one at a conspicuous place on the land or left at the owner's, agent's or occupant's residence, and one at the court house, ten days prior to the date fixed for the hearing.

**§ 1061. Board to hear proof and award damages.** The board shall, on the day fixed for the hearing, or on the day to which it may be postponed or adjourned, hear the evidence and proof from all the parties interested for and against the proposed change or new road, ascertain and by order declare the amount of damages awarded to each nonconsenting land owner and declare the report of the viewers to be approved or rejected.

**§ 1062. Order after hearing.** If the board approves the report and there are no nonconsenting land owners the highway must by order be declared a public highway, and the road supervisor ordered to open the same to the public, and, if the board orders it the county surveyor shall survey and plat the same and file his field notes with the clerk of the board.

**§ 1063. Damages set apart for owner.** The board upon making an order establishing the location or change of any highway must order the amount of damages sustained by each person owning or claiming lands or any improvements thereon and affected thereby, as finally fixed and assessed by it to be set apart in the treasury out of the proper fund to be paid to the proper owner or claimant, if



known, and to be kept for the owner or claimant if unknown, and to be paid to him upon the order of the board upon his showing or establishing his right or title to such lands or improvements.

§ 1064. **When money returned.** Any money set apart as herein provided for must be returned to the fund from which it was set apart if not paid to or accepted by the proper owner or claimant. If the awards are all accepted, the road must be declared a public highway and be opened as above provided.

§ 1065. **Damages, how determined.** The damages must be determined by ascertaining the benefits and damages accruing to any person by reason of the changing or the laying out of such road, and the sum estimated as benefits must be deducted from the sum estimated as damages in computing the amount of damages to be awarded.

§ 1066. **Procedure when award refused.** If any award of damages is not accepted within thirty days from the date of the award it shall be deemed rejected by the land owners. The board must, if any award for damages is rejected, by order, direct proceedings to procure the right of way to be instituted by the state's attorney of the county under and as provided in the chapter on eminent domain in the code of civil procedure, against all nonaccepting land owners, and when thereunder the right of way is procured, the road must be declared a public highway, and opened as hereinbefore provided.

§ 1067. **From what fund awards paid.** All awards by agreement, ascertainment by the board or by the court, and all expenses of viewing, surveying, laying out or changing any road must be paid out of the road fund upon the order of the board.

§ 1068. **Record of viewers' report.** If the highway is opened or changed, the final report of the viewers, including the plat, field notes and report of the surveyor must be recorded in the office of the county auditor in a book kept for that purpose.

§ 1069. **Not ordered through growing crops.** No highway must be ordered opened through fields of growing crops or along a line where crops would thereby be exposed to stock until the owner thereof has sufficient time to harvest and care for such crops.

§ 1070. **Notice to road supervisor.** When any highway is to be changed or laid out, the county auditor or the clerk of the board, as the case may be, must notify the road supervisor or overseer of highways, as the case may be, of the proper district and furnish him with a certified copy of the order of the board.

§ 1071. **Record of judgment or conveyance.** In all cases where consent to use the right of way for a highway is voluntarily given, purchased, or condemned and paid for, either an instrument in writing, conveying the right of way and incidents thereto executed and acknowledged by the party making it, or a certified copy of the judgment of the court condemning the same, in which the land so conveyed or condemned must be particularly described, must be made, and filed and recorded in the office of the register of deeds.

§ 1072. **Repair of highways across railroads, etc.** Whenever highways are laid out across railroads, canals or ditches on public lands, the owners must at their own expense so repair their roads, canals or ditches that the public highway may cross the same without damage or delay, and when the right of way for a public

highway is obtained through the judgment of any court, over any railroad, canal or ditch, no damages must be awarded for the simple right to cross the same.

§ 1073. **Removal of fences. Notice to owner.** When the change of an old or the opening of a new road makes it necessary to remove fences on land donated, purchased, or condemned by order of the court for road or highway purposes, notice to remove the fences must be given by the road supervisor to the owner, occupant or agent, or by posting the same on the fences; and if the same is not removed within ten days thereafter or the removal commenced and pursued with due diligence, the road supervisor may cause it to be removed at the expense of the owner and recover of him the cost of such removal and the fence material may be sold to satisfy the judgment.

§ 1074. **Laid out on section lines.** Highways must be laid out and opened when practicable upon subdivision or section lines.

§ 1075. **Changing highway to section lines.** Upon a petition for that purpose by a majority of the owners of the lands bordering upon or through which any highway passes, when it can be done without material damage, the board may change such highway to subdivision or section lines, and lay out and open the same thereon.

ARTICLE 2. — GENERAL PROVISIONS.

§ 32, c. 29, Pol.C. § 1076. **Highways on county or township lines.** Public highways established on county or township lines shall be opened and repaired by the supervisors of the proper road district on each side thereof, and by the joint labor of the persons in each of such districts in each county or township.

§ 36, c. 29, Pol.C. § 1077. **Settlers have same rights as freeholders.** In all applications for the location, change or vacation of any public highway, actual settlers upon any public land shall have and possess all the rights in this chapter granted to owners.

§ 42, c. 29, Pol.C. § 1078. **Public Lands. Damages.** When any person shall acquire the title to government land over which any road has been or may hereafter be duly laid out, subsequent to the laying out of such road, the person so acquiring such title shall within three months after the receipt of his patent therefor assert his claim for damages in the manner hereinbefore provided in case of locating highways, and such roads shall remain and be public highways, but his damages, if any, shall be paid, and in case of a failure to assert his claim for damages within the time aforesaid, he shall thereafter be barred from asserting such claim.

§ 43, c. 29, Pol.C. § 1079. **Occupying claimants.** All public lands in this state, settled upon and occupied, shall be subject to all the provisions of this chapter so far as the rights and liabilities of such settlers are concerned.

§ 47, c. 29, Pol.C.  
§ 1. c. 132, 1889. § 1080. **Hedge protection.** Any person cultivating a hedge or trees upon his lands adjoining a public highway and desiring to fence the same, may place such fence seven feet over and upon such highway, provided it does not obstruct the public travel.

§ 1. c. 69, 1893. § 1081. **County road fund.** In each county of this state, having a population of five thousand or more, according to the latest United States or state census, there may be levied and collected annually, as other county taxes are levied and collected, a property tax of not less than one mill on each dollar of the assessed valuation of all taxable

property in the county, except in incorporated cities and villages, which, when collected, shall be kept as a distinct fund, to be known as the county road fund, and expended in the improvement of highways, under the direction of the board of county commissioners, as herein provided. Such tax shall be in addition to all other taxes for highway purposes otherwise prescribed by law.

§ 1082. **Fund, how expended.** Such fund shall be expended only in grading, ditching and surfacing, in proper form and condition for public travel, such highways or parts of highways, howsoever established, as constitute the principal thoroughfares of the county communicating with shipping points and market places resorted to by inhabitants of the county, for which the means otherwise provided are not, in the opinion of the county commissioners, sufficient, and then only upon petition of persons owning taxable property and residing in the vicinity of the highways in each case upon which such improvement is asked, to the number of at least one hundred. § 2. c. 69, 1893.

§ 1083. **Petitions for improvements. Survey.** Such petition shall be presented at the regular meeting of the board of county commissioners, and thereupon the board shall direct such investigation as may be necessary to inform it as to the utility and probable cost of the proposed improvement, and may for that purpose order a preliminary survey, and at its next succeeding July meeting, it shall determine what highways or parts of highways designated in such petition shall be so improved, and estimate the probable amount of money that will be required to complete such improvement, and how much can be reasonably provided for, and for the completion of similar improvements previously in part made by the tax levy for the current year, and shall levy such tax accordingly. § 3. c. 69, 1893.

§ 1084. **Board to advertise for bids for work.** At its regular April session in each year, the board of county commissioners shall determine what amount of such funds is or will be available for expenditure during the ensuing season, in improvements previously ordered, and shall apportion such available funds, as nearly as may be to the several highways upon which such improvements have been ordered, but no part thereof shall be set apart for the benefit of any highway upon which the work of improvement has not been commenced, until sufficient provision shall have been made for the completion of the work upon highways whenever it has been in part performed. It shall thereupon advertise in an issue of each week of some newspaper of the county until the last Saturday in such month for proposals to do all work contemplated during the ensuing season for which such appropriation had been made, and at its special meeting on the last Saturday of such month, it shall let the same by contract to the lowest responsible bidder, whom it shall deem competent, requiring him to give such bond as it shall deem sufficient, to secure the fulfillment of his part of such contract. § 4. c. 69, 1893.

§ 1085. **Payments, how made.** The board of county commissioners shall in case of each improvement ordered by it, designate the place of beginning and the direction in which the work shall proceed and require the same to be completed mile by mile or in parts of miles continuously, as so ordered, and no payment shall be made except for work so completed. It may also require the supervision of the work by the county surveyor, so far as deemed necessary, and shall require him to compute and estimate the amount of completed work and certify the same to the county auditor at the end of each § 5. c. 69, 1893.

month, and all the work so contracted for shall be completed prior to the first day of November next following. The provisions of this section and the orders and directions of the board made in pursuance thereof shall constitute a part of the provisions and conditions of every such contract, whether expressed therein or not.

§ 6, c. 69, 1893.

**§ 1086. County auditor to issue warrants.** Upon the filing of the surveyor's certificate as hereinbefore provided, the county auditor shall issue warrants accordingly on the county treasurer in favor of the contractor, payable out of the county road fund appropriated thereto, and the same shall be paid by the treasurer.

§ 7, c. 69, 1893.

**§ 1087. Compensation of surveyor.** The county surveyor shall receive for his services rendered as aforesaid the same compensation as in other cases, to be paid by the county out of such road fund, upon accounts duly verified and allowed by the board of county commissioners.

ARTICLE 3. — BRIDGES.

§ 1, c. 38, 1890.  
am'd.

**§ 1088. Petition. Bids.** Whenever a majority of the freeholders of a civil township or a majority of freeholders living within a radius of three miles of the proposed location shall petition the board of county commissioners for a bridge at a specified location within such township, when the cost of such bridge shall exceed the sum of one hundred dollars, it shall be the duty of the board of county commissioners to view and investigate the necessity of such proposed bridge; and if such county board approves its location and building, it shall proceed to advertise in the official paper of the county for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to them at their next regular or special meeting, at which meeting of the board it shall proceed to examine all proposals or bids for the building of such bridge, and shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid or contract; which bond shall be approved by the board of county commissioners and filed in the office of the county auditor.

§ 2, c. 38, 1890.  
am'd.

**§ 1089. Expense, how paid.** The expense of constructing such bridge shall be paid out of the county bridge fund, if such bridge is accepted and approved by the board.

§ 3, c. 38, 1890.  
§ 1, c. 42, 1895.

**§ 1090. Supervision and repairs of bridge.** Any bridge built under the provisions of section 1088 shall be under the supervision of the township board and all repairs not exceeding fifty dollars shall be borne by the township where such bridge is located, and in excess of that sum by the county; provided, that when the cost of repairing such bridge exceeds fifty dollars, it shall be under the supervision of the county commissioners; and that the cost of all such repairs shall be estimated by the county commissioners.

§ 48, c.29, Pol.C.

**§ 1091. Bridges part of highway.** Bridges erected or maintained by the public constitute a part of the public highway.

§ 1, c. 18, 1887.

**§ 1092. Bridges across navigable rivers, petition for.** Whenever one-third of the resident taxpayers of any county as appears by the last preceding assessment roll of such county, shall petition the board of county commissioners of such county, praying for an

appropriation to build a bridge across any navigable river on the line of any such county, setting forth therein the location of such bridge as near as may be, its estimated cost, and the necessity therefor to accommodate the general traveling public, the manner in which it is proposed to pay for such structure, and the time when it will be completed, such petition to be duly verified by the affidavits of at least fifteen of the petitioners therein named, it shall be the duty of the board of county commissioners to publish a notice in the official paper of the county, once each week for three consecutive weeks, briefly stating the object of such petition and that the same will be heard and considered at the next regular meeting of such board. At the time appointed for the hearing of such petition the board of county commissioners shall investigate the need for such bridge, and if they find the same to be necessary shall, by resolution duly entered upon the minutes of the board, appropriate toward the building of such bridge, from the county treasury, a sum not exceeding one-half of the estimated cost of such bridge, to be paid as hereinafter provided; provided, however, that the appropriation hereinbefore mentioned shall be upon condition that a sufficient bond be given, conditioned that the remaining one-half or more, as the case may be, of the cost of such bridge will be paid; provided, further, that the consent of the general government to span such river shall first have been obtained.

**§ 1093. County aid, conditional.** If the remaining one-half of the cost of such bridge shall be made up by an appropriation from any neighboring state or by any municipality in this state, to be expended under a commission or through any other agency, the board of county commissioners shall appoint a committee from its own number, of three or more, to meet such other municipal agency, confer with its members and advise and assist in the accomplishment of such improvement in the best possible manner, and when the work is completed and approved jointly by such agency and committee, which approval shall be in writing and duly reported to such board and recorded in the minutes thereof, the board shall thereupon direct the county auditor to draw his warrant upon the treasurer in favor of the contractor for the amount due him from such county. § 2, c. 18, 1887.

**§ 1094. May vote bonds.** When one-half or such other proportion as may be, of the cost of such improvement shall be provided for by any municipality within this state, it shall be lawful for such municipal corporation, by a majority vote of the legal voters thereof after ten days' notice, to meet the necessary expense by the issuance of bonds bearing interest not to exceed seven per cent per annum and not to run longer than twenty years after the date of issue, nor to be sold for less than par value, interest payable semi-annually; provided, that the limit of indebtedness of such corporation prescribed in the constitution is not thereby exceeded. In case the limit of indebtedness of such municipality would be thereby exceeded, then it shall be lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same shall be completed and accepted the share of the cost thereof to be borne by such municipality shall be paid out of the general fund by orders drawn in the usual form and manner. § 3, c. 18, 1887. am'd.

**§ 1095. Cost of bridge limited.** Not more than one wagon bridge across a navigable river in each county shall be built under § 4, c. 18, 1887.

this article, and the total cost of such bridge shall in no case exceed the sum of fifty thousand dollars.

#### ARTICLE 4. — ROAD SUPERVISORS.

- § 63, c. 29, Pol.C.    **§ 1096. Road districts. Appointment of supervisors.** At the annual meeting of the board of county commissioners in January of each year, or as soon thereafter as practicable, it shall be the duty of such board in each organized county to apportion the county into one or more road districts when such county is not formed into townships, and shall appoint for each district a road supervisor, who shall hold his office until the first day of January succeeding his appointment, and shall take an oath faithfully to discharge his duties as such road supervisor.
- § 65, c. 29, Pol.C.    **§ 1097. Duties of road supervisors.** The road supervisor of each road district or township shall obtain the names and make out a list of all male persons between the ages of twenty-one and fifty years residing within his district, which list shall be completed on or before the first day of March in each year, and in case any person as aforesaid shall locate in any road district after the first day of March, the supervisor shall enroll his name and he shall be liable to perform labor on the road at the same time and in the manner that those originally enrolled are liable, but any person who has performed labor that year in any road district and has a certificate thereof, shall be credited with the labor so performed, in the same manner as though it had been performed in the district in which he resides.
- § 66, c. 29, Pol.C.    **§ 1098. Road poll tax.** Each male person between the ages of twenty-one and fifty years shall be subject to a poll tax of one dollar and fifty cents, which must be paid in money or by one day's labor in each year on the public highway within his road district at the time and place directed by the road supervisor.
- § 1. c. 124, 1881.    **§ 1099. Notice to be given to persons.** The road supervisors must, between the first days of April and December of each year, give at least twenty-four hours' notice to all persons subject to road labor as aforesaid, to perform the work necessary on the public highways within their respective districts, and such notice shall specify the time when and place where they are to appear for that purpose.
- § 1. c. 124, 1881.    **§ 1100. Penalty for neglect to pay tax.** Each person subject to labor on the public highways, who has been duly notified to work thereon as hereinbefore provided, who shall not commute or pay the sum of one dollar and fifty cents as provided in section 1098, and who shall refuse or neglect without good cause to appear as above provided, shall, for each day's refusal pay the sum of one dollar.
- § 1. c. 124, 1881.    **§ 1101. Supervisor to make complaint.** Each road supervisor may, within six days after any person shall become liable for the payment of any sum under the provisions of the foregoing section, unless a satisfactory excuse is rendered to him by the person so liable, make complaint in writing on oath to some justice of the peace in the county, stating the default, neglect, refusal or other cause by reason of which such person became so liable, which complaint shall be in the name of the state as plaintiff, and the person liable for such tax as defendant, and no fees of officers nor court expenses or costs shall be paid or charged in enforcing the provisions of this chapter except that the same may be charged and collected from the defendant.

§ 1102. **Duty of justice on complaint.** The justice of the peace to whom such complaint is made shall forthwith issue a summons directed to the defendant in the form provided in the justice's code which summons shall be for relief and shall be made returnable in not less than two nor more than six days and it shall be the duty of any sheriff or constable to whom it is delivered forthwith to serve the same. § 1, c. 124, 1881.

§ 1103. **Proceedings to collect tax.** On the return day of such summons, or within such reasonable time thereafter as the justice shall allow, if no sufficient cause is shown to the contrary, the justice shall render a judgment in favor of the state against such person for the sum for which such person shall have become liable to pay on account of such default, neglect or delinquency, and for the delinquent tax, with the costs of the prosecution, and shall forthwith issue an execution in the usual form, directed to the sheriff or any constable of the county, returnable at the time prescribed therein commanding him to levy the amount of such judgment, including the costs, out of the goods and chattels of such defendant, and nothing shall be exempt from such execution except the absolute exemptions. § 1, c. 124, 1881.

§ 1104. **Execution.** The officer to whom such execution is delivered shall forthwith proceed to execute the same, and he shall pay the moneys collected thereon to the justice of the peace who issued the execution, who shall pay the same less the costs thereof to the supervisor who entered the complaint, to be by him expended in improving the roads and bridges in his district, and the costs thereof shall be paid to the persons entitled thereto. § 1, c. 124, 1881.

§ 1105. **Supervisors shall not excuse payment.** The acceptance by a supervisor of an excuse for such a refusal or neglect shall in no case exempt the person excused from paying for or working the tax for which he shall have become liable during the year. § 1, c. 124, 1881.

§ 1106. **Road tax worked, when.** Any road tax levied by the board of commissioners in addition to the poll tax may be worked out in the road district in which such person resides when it is a personal tax or a tax on personal property, or, in the road district where the real property is situate on which the tax is levied, at the rate in all cases of one dollar and fifty cents per day. § 68, c. 29, Pol.C.

§ 1107. **Work certified for tax.** The road supervisor must obtain a list of the road tax assessed against each individual; and a certificate by the supervisor for the amount worked out must be taken by the county treasurer in payment to that amount of such tax. § 69, c. 29, Pol.C.

§ 1108. **Board to expend tax, how.** The board of county commissioners must order the expenditure of all road taxes paid into the county treasury, in the improvement of the highways, paying the road supervisors, purchasing implements and repairing bridges in each road district, under such regulations as it may deem most expedient for the public interests, and for this purpose shall order the payment of such sum by the treasurer to the persons performing such labor upon the certificate of the road supervisor; provided, that such funds shall be expended in the road district in which the person resides, when it is a personal tax or a tax on personal property, and where the real estate is situate when it is a tax on real estate. § 70, c. 29, Pol.C.

§ 1109. **Tax levy to pay road supervisor.** When the road tax in any road district has been worked out as provided in section 1006, and there are no funds available for paying the road supervisors, the county commissioners may levy a tax, not exceeding one mill on § 1, c. 125, 1889.

the dollar, upon the taxable property of the road district in which such deficiency occurs, for such purpose, to be paid in cash to the county treasurer as other taxes are collected and paid.

§ 71. c. 29. Pol.C. **§ 1110. Obstructions in highway.** It shall be the duty of each road supervisor having personal knowledge of or on being notified in writing of any obstruction in the highway, or public street in his district, immediately to remove or cause to be removed any such obstruction.

§ 72. c. 29. Pol.C. **§ 1111. Penalty for obstructing highway.** If any person shall willfully, carelessly or negligently obstruct or injure any public highway, public street or bridge, it shall be the duty of the road supervisor of the district in which such obstruction is placed or injury done to enter complaint against the person so offending, before a justice of the peace of the county, and on conviction thereof the fine so collected shall be immediately paid over to the county treasurer.

§ 73. c. 29. Pol.C. **§ 1112. Report of road supervisors.** On or before the first Monday of January in each year, the road supervisors appointed by the board of county commissioners shall each make a report to the board of his doings as such during the preceding year, the amount of labor performed, the number of days' labor necessarily performed by him in the discharge of his duties, and the county commissioners shall thereupon cause a warrant to be drawn on the county treasurer in favor of such supervisor for such services at one dollar and a half per day, payable from the road fund belonging to such district.

§ 74. c. 29. Pol.C. **§ 1113. Penalty for refusal to serve as road supervisor.** Each person elected or appointed road supervisor who shall fail, refuse or neglect to qualify as such for thirty days after having been duly notified of his election or appointment, shall forfeit the sum of ten dollars, to be collected upon a complaint made by any citizen before a justice of the peace of the county, together with all the costs of the prosecution, which forfeiture when collected shall be paid into the road fund of the district in which he resides.

ARTICLE 5.—ROAD DUTIES OF TOWNSHIP SUPERVISORS.

§ 4. sub-c. 2. c. 112. 1883. **§ 1114. Supervisors have care of roads.** The supervisors in the several townships in this state shall have the care and superintendence of roads and bridges therein, shall give directions for the repairing of the roads and bridges in their respective townships, regulate roads already laid out and alter such of them as they deem proper, as hereinafter provided; divide the respective townships into as many road districts as they deem convenient, by an order in writing under their hands, to be filed with the township clerk and by him entered in the township records, such division to be made annually if they deem it necessary, and in all cases to be made within at least twenty days before the annual township meeting. They shall assign to each of the road districts such of the inhabitants liable to work on highways as they think proper, having regard to proximity of residents, and require the overseers of highways as often as they deem necessary to warn all persons liable to work on roads, to perform work thereon, with such tools, carriages, cattle or teams, as the overseers or either of them shall direct.

§ 5. sub-c. 2. c. 112. 1883. am'd. **§ 1115. Report of labor performed on roads.** The supervisors in each township shall render to the annual township meeting an account in writing, stating the labor assessed and performed in



such township, the sums received by them for fines and commutations, and all other moneys received under this article; a statement of the improvements necessary to be made on the roads and bridges, and an estimate of the probable excess of the expense of making such improvements over the road and poll tax for that year; also a statement in writing of all expenses and damages in consequence of laying out, altering or discontinuing roads.

#### ARTICLE 6. — DUTIES OF OVERSEERS OF HIGHWAYS.

§ 1116. **Duties of overseers of highways.** The overseers of highways in each township shall repair and keep in order the roads within their respective districts, warn all persons from whom labor is due to work on highways at such times and places within their several districts as they may deem proper, collect all fines and commutation money, execute all lawful orders of the supervisors, and deliver to the township clerk within sixteen days after his election or appointment, a list subscribed by such overseer, of the names of all the inhabitants of his road district who are liable to work on the highways. § 6, sub-c. 2. c. 112, 1883.

§ 1117. **When overseer shall be appointed.** If any person chosen or appointed to the office of overseer of highways refuses to serve or if his office becomes vacant, the supervisors of the township shall in writing under their hands appoint some person in his stead, and the overseer so appointed shall have the same powers, be subject to the same orders, and liable to the same penalties as overseers chosen at township meetings. § 7, sub-c. 2. c. 112, 1883.

§ 1118. **Notice of appointment.** The supervisors making the appointment shall cause the same to be forthwith filed in the office of the township clerk, who shall give notice to the person so appointed as in other cases. § 8, sub-c. 2. c. 112, 1883.

§ 1119. **Penalty for neglect to perform duties.** Every overseer of highways who refuses or neglects to perform any of the duties prescribed in this article, or which may be lawfully required of him by the supervisors of his township, shall for every such refusal or neglect forfeit the sum of ten dollars to be sued for by the chairman of the board of supervisors of the township, and when recovered, to be applied by him in making and improving the roads and highways therein. § 9, sub-c. 2. c. 112, 1883.

#### ARTICLE 7. — HIGHWAY LABOR AND ROAD TAX.

§ 1120. **Meetings of supervisors.** The supervisors of each township shall meet at the township clerk's office on the last Tuesday of March each year and afterwards at such other times and places as they deem proper. § 10, sub-c. 2. c. 112, 1883.  
§ 4, c. 155, 1887.

§ 1121. **Make estimate of labor.** The township clerk shall deliver the list filed by the overseers to the supervisors, who shall proceed to ascertain, estimate and assess the highway labor and road tax to be performed and paid in their township the next ensuing year. § 11, sub-c. 2. c. 112, 1883.

§ 1122. **Who liable to labor.** Each male inhabitant above twenty-one years and under fifty years of age, excepting paupers, idiots, lunatics and such others as are exempt by law, shall be assessed one day in each year. Supervisors shall levy a road tax on all real estate and personal property liable to taxation in the township to any amount they may deem necessary not exceeding one dollar on each § 12, sub-c. 2, c. 112, 1883.  
§ 1, c. 128, 1885.

one hundred dollars of valuation as shown on the assessment roll of the preceding year. They shall prepare a list in which they shall write in separate columns:

1. The name of each person named in the list furnished by the overseers.
2. The number of days assessed to each person for highway labor.
3. A description of each tract of real property, in the name of the owner if known.
4. The valuation thereof as shown by the assessment roll of the previous year.
5. The amount of road tax assessed thereon.

The list so prepared shall be signed by the supervisors and deposited with the township clerk to be filed in his office.

§ 13, sub-c. 2, c.  
112, 1883.

§ 1123. **Highway tax list.** The supervisors shall also place on the land road list the names of all persons against whom a road tax on personal property only has been assessed, and place in a separate column opposite the name of each person on the list the amount of road tax assessed on personal property, which amount shall be subject to collection or commutation by labor the same as a land road tax assessed on real estate.

§ 14, sub-c. 2, c.  
112, 1883.  
am'd.

§ 1124. **Copy of list to overseers of highways.** The supervisors shall direct the township clerk to make a certified copy of each list, after which the township clerk shall deliver the several copies to the respective overseers of highways of the several districts in which highway labor is assessed, for which he shall receive a fee of twenty-five cents for each copy so delivered. One copy for each overseer shall contain the name of each person against whom a poll tax has been assessed, the other the land and personal property road tax.

§ 15, sub-c. 2, c.  
112, 1883.

§ 1125. **Overseer to add certain names to the list.** The overseers of highways shall add the names of persons omitted from such list and of new inhabitants, and they shall be rated in the same proportion to work on the highways as others are rated by the supervisors on such list.

§ 16, sub-c. 2, c.  
112, 1883.  
§ 1, c. 42, 1890.

§ 1126. **Three days' notice to all persons assessed.** Overseers of highways shall give at least three days' notice to all persons assessed to work on highways and living within the limits of their respective districts, of the time and place when and where they are to appear for that purpose, and with what implements; but no person who is a resident of the township shall be required to work on any highway other than in his own district in which he resides, but may elect to pay any land road tax in labor in the district in which said land is situated, and shall be allowed one dollar and fifty cents for himself, and a like amount for the use of his team and wagon or plow. Such labor shall be at the disposition of the overseers of their respective districts. If any person shall have done any road work under the direction of the road overseer, such person shall be entitled on demand to a receipt from such overseer, which receipt shall state the value of such labor and the name of the person, when the assessment is against personal property, and the description of the land when the assessment is against real property. Such receipt shall be received by the county treasurer or road overseer in payment of any road or bridge tax levied and assessed in that or any succeeding year in such township against such person or land. If from any cause the amount stated in such receipt shall exceed the amount of the tax then due, the county treasurer or the road overseer shall accept and retain

such receipt, and shall give to the owner of such receipt another receipt for the amount of the excess of the original receipt over and above said tax. Such receipt shall be received in payment of taxes to the amount stated therein, in the same manner as the original receipt.

§ 1127. **Obstructions to be removed by overseers.** Road overseers have power and it is their duty whenever any public highway becomes obstructed or unsafe from any cause whatever, to call upon any or all persons liable to poll tax in his district to come forth with such tools or teams as the overseer may direct, and work upon such highway in removing obstructions or repairing dangerous places, and for all such labor performed under the directions of the overseers, by any person in excess of the road tax assessed against him for that year, the road overseer shall give a receipt stating the value of such labor, and such receipt shall be received in payment of any road tax due from any person to such district in that or any succeeding year; and any road overseer who fails to perform his duty as required by law shall be subject to prosecution therefor by the supervisors of the township, and upon conviction shall be liable to a fine of not less than five nor more than fifty dollars.

§ 17, sub-c. 2, c. 112, 1883, am'd.

§ 1128. **Commutation of road labor.** Each person liable to work upon the highways shall work the whole number of days for which he is assessed, but every such person other than the overseer of highways, may elect to commute for the same or for some part thereof at the rate of one dollar and fifty cents per day, in which case such commutation money shall be paid to the overseer of highways of the district in which the person commuting shall reside, to be applied and expended by the overseer in the improvement of the roads and bridges of the same district. Overseers of highways when such land tax is paid either in money or labor, shall write in their list the word "paid" opposite the name or tract of land on which the same is paid.

§ 18, sub-c. 2, c. 112, 1883.

§ 1129. **Payment of commutation money.** Each person intending to commute for his assessment or any part thereof shall within two days after he is notified to appear and work on the highways, pay the commutation money for the work required of him by such notice, and the commutation shall not be considered as made until such money is paid.

§ 19, sub-c. 2, c. 112, 1883.

§ 1130. **Power of overseer to require team or cart.** Each overseer of highways has power to require a team or cart, wagon or plow, with a pair of horses or oxen and a man to manage them, from any person having the same within his district.

§ 20, sub-c. 2, c. 112, 1883.

§ 1131. **Person assessed may procure substitute.** Each person assessed to work on the highways and warned to work may appear in person or by an able-bodied man as a substitute and the person or substitute so appearing shall work eight hours in each day, under a penalty of fifteen cents for each hour such person or substitute is in default, to be imposed as a fine on the person assessed.

§ 21, sub-c. 2, c. 112, 1883, § 2, c. 128, 1885.

§ 1132. **Fine for neglect to appear.** Each person so assessed and duly notified, who does not commute or who refuses and neglects to appear as above provided, shall be fined for each day's refusal or neglect the sum of two dollars. If he was required to furnish a team, carriage or implements, and refused or neglected so to comply, he shall be fined as follows:

§ 22, sub-c. 2, c. 112, 1883.

1. For wholly omitting to comply with such requisition, four dollars for each day.

2. For omitting to furnish a cart, wagon, or plow, one dollar for each day.

3. For omitting to furnish a pair of horses or oxen, one dollar and fifty cents each day.

4. For omitting to furnish a man to manage the team, one dollar and fifty cents for each day.

§ 23, sub-c. 2, c. 112, 1883. **§ 1133. When overseer shall make complaint.** Each overseer of highways, within nine days after any person so assessed and notified is guilty of any refusal or neglect for which a penalty or fine is prescribed in this article, unless satisfactory excuse is rendered to him for such refusal or neglect, shall make complaint to one of the justices of the peace of the township or of an adjoining township.

§ 24, sub-c. 2, c. 112, 1883. **§ 1134. Duty of justice on complaint.** The justice to whom such complaint is made shall forthwith issue a summons directed to the sheriff or any constable of the county, requiring him to summon such delinquent to appear at the time and place specified in the summons, to show cause why he should not be fined according to law for such refusal or neglect, which summons shall be served personally.

§ 25, sub-c. 2, c. 112, 1883. **§ 1135. Fine and collection thereof.** If upon the return of such summons no sufficient cause is shown to the contrary, the justice of the peace shall impose a fine as provided in this article for the offense complained of, and shall forthwith issue an execution under his hand directed to such sheriff or constable, commanding him to levy such fine and the costs out of the goods and chattels of the delinquent, and no property shall be exempt therefrom.

§ 26, sub-c. 2, c. 112, 1883. **§ 1136. Fine disposed of, how.** The officer to whom such execution is directed shall forthwith collect the moneys therein mentioned. He shall pay the fine when collected to the justice who issued the warrant, who is required to pay the same to the overseer who entered complaint to be by him expended in improving the roads and bridges in his district. The costs when collected shall be paid to the persons entitled thereto.

§ 27, sub-c. 2, c. 112, 1883. **§ 1137. Overseer cannot excuse person.** The acceptance by an overseer of any excuse for refusal or neglect shall in no case exempt the person excused from commuting for or working the whole number of days for which he is assessed during the year.

§ 28, sub-c. 2, c. 112, 1883. **§ 1138. Compensation of overseers.** Each overseer of highways is entitled to two dollars per day, to be paid out of the fines and commutation money for each day he is necessarily employed in the execution of his duties as overseer. When there are no funds from fines or commutations the supervisors may pay the overseers out of any funds in their hands raised for the purpose of repairing and making roads and bridges.

§ 29, sub-c. 2, c. 112, 1883. **§ 1139. Overseer to return tax list.** Each overseer of highways shall deliver to the township clerk of his township on or before the fifteenth day of September in each year the list furnished by the supervisors containing the land and personal property road tax, with his certificate thereon that all taxes in such list opposite which the word "paid" is not written, are due and unpaid according to the best of his knowledge and belief.

§ 30, sub-c. 2, c. 112, 1883. **§ 1140. Refusal or neglect to deliver tax list.** If any overseer refuses or neglects to deliver such list with his certificate as provided in the last section, he shall, for each offense, forfeit the sum of

five dollars, and also the amount of tax remaining unpaid, to be recovered by the supervisors of such township and applied by them in improving roads and bridges in such township.

§ 1141. **Township clerk to make out delinquent list.** The township clerk of each township shall receive the lists returned by the overseer of highways pursuant to section 1139 and keep the same on file in his office, and shall make out and deliver to the county auditor of the county, on or before the first day in October in each year, a list containing a description of each tract or parcel of land on which the tax is delinquent, together with the name of the owner, if known, and if unknown, so state, and the amount of tax due and remaining unpaid on each, and containing all of the unpaid road taxes levied upon personal property according to the lists on file in his office, and shall make his certificate thereon to the effect that the same is a correct list of delinquent road taxes for the year therein stated, as appears from the several lists returned by the overseers of highways and on file in his office; and it is the duty of the county auditor to extend such unpaid taxes upon the tax lists for the current year, to be collected in the same manner as other taxes. Such road tax, when collected, shall be paid to the township treasurer of the proper township upon the certificate of the county auditor, and shall be expended by the supervisors in the construction or repair of roads and bridges, to be paid by the township treasurer upon the order of the supervisors.

§ 31, sub-c. 2, c. 112, 1883.  
§ 2, c. 153, 1887.

§ 1142. **Work done prior to August first.** It shall be the duty of each overseer of highways to have at least three-fourths of the road labor assessed in his district worked out or actually expended on the highways previous to the first day of August in each year.

§ 32, sub-c. 2, c. 112, 1883.

§ 1143. **Report of supervisors.** Each overseer of highways shall on the second Tuesday next preceding the time of holding the annual township meeting in his township within the year for which he is elected or appointed, render to one of the supervisors of the township an account in writing containing:

§ 33, sub-c. 2, c. 112, 1883.

1. The names of all persons assessed to work on the highways in his district.
2. The names of all those who have actually worked on the highways, with the number of days they have worked.
3. The names of all those who have been fined and the sums in which they have been fined.
4. The names of all those who have commuted and the manner in which the moneys arising from fines and commutations have been expended by him.

§ 1144. **Overseer to pay over money.** Every such overseer shall then and there pay to the supervisors all unexpended moneys remaining in his hands, to be applied by the supervisors on the roads and bridges in the township.

§ 34, sub-c. 2, c. 112, 1883.

§ 1145. **Penalty for refusal to render account.** If any overseer refuses or neglects to render such account or if, after rendering the same, he shall refuse or neglect to pay any balance which may be due from him, he shall for every such offense, forfeit the sum of five dollars, to be recovered with the balance of the moneys remaining in his hands, by the supervisors of the township and applied to the improvement of the roads and bridges in such township.

§ 35, sub-c. 2, c. 112, 1883.

## ARTICLE 8. — ROADS IN CITIES.

§ 53, sub-c. 2, c.  
112, 1883.

**§ 1146. Powers of city authorities.** The same powers and duties in and by this chapter conferred and imposed upon township supervisors, are also conferred and imposed upon the city councils of the several cities throughout this state, and in addition thereto it shall be the duty of the city council to appoint some qualified elector of each road district in the city to be overseer of roads in such district, and the overseers of roads, city clerks or auditors, justices of the peace and constables of the several cities of the state shall exercise the same powers and perform the same duties and be subject to the same liabilities as are in and by this article conferred and imposed upon the township overseers, clerks, justices of the peace and constables, and all the provisions of this article shall be applicable to the several cities in this state unless otherwise provided for in their several charters, subject, however, to the reservations made by law in regard to incorporated cities.

## ARTICLE 9. — OBSTRUCTING HIGHWAYS.

§ 74, sub-c. 2, c.  
112, 1883.

**§ 1147. Penalty for obstructing highway.** Whoever at any time obstructs any of the public highways in this state in any manner, with intent to prevent the free use thereof by the public, or whoever shall do or cause to be done any planting or plowing thereon within one rod on either side of the center line of such highway, shall be subject to a fine of not less than five nor more than twenty-five dollars, together with the costs of prosecution, and on failure to pay such fine and costs, he may be committed to the county jail, there to remain until such fine and costs are paid or until discharged according to law; and it is the duty of the board of supervisors of the several townships in this state to make complaint and to prosecute or cause to be prosecuted all persons violating the provisions of this section.

## ARTICLE 10. — WATERING PLACES ON HIGHWAYS.

§ 84, sub-c. 2, c.  
112, 1883.

**§ 1148. Watering troughs. Bounty for.** Any person in any city, village or township in this state who shall construct and maintain a watering trough beside the highway, which shall be above the ground and made easily accessible for horses, shall be allowed by the city, village or township, five dollars out of his highway tax for each year during which he shall maintain the same.

§ 85, sub-c. 2, c.  
112, 1883.

**§ 1149. Well or spring. Bounty for.** Any person in any city, village or township who shall construct and maintain a good well or spring beside the highway, easily accessible, and provided with a suitable pail or bucket, and keep the same so supplied and in good repair, shall be allowed by the city, village or township, three dollars out of his highway tax for each year during which he shall furnish the same.

§ 86, sub-c. 2, c.  
112, 1883.

**§ 1150. Proceedings to furnish watering places.** Any person upon any highway or road in any district or ward desiring to furnish such watering trough, well or spring, shall make application to the aldermen of the city or supervisors of the township, who shall decide where such trough, well or spring shall be located, and the number of persons who may receive the benefits of the last two sections.

ARTICLE 11. — DITCHES FOR DRAINING HIGHWAYS.

§ 1151. **Proceedings for.** Whenever any overseer of highways or road supervisor shall file with the board of supervisors of the township in which his road district is located, or with the board of county commissioners, as the case may be, his affidavit stating that a certain road in his district runs into or through swamp, bog, meadow or other low land, and that it is necessary or expedient that a ditch should be constructed and maintained through land belonging to any person, also stating the probable length of such ditch and the width and depth of the same as near as may be, the point at which it is to commence, its general course and the point at or near which it is to terminate, the names of the persons owning the land, if known, and a description of the land over which such ditch must pass, the board of township supervisors or county commissioners as the case may be, if the right to construct and maintain such ditch is not voluntarily given by the person owning the land over which it is to pass, shall cause proceedings to be instituted in its name under the provisions of the chapter on eminent domain in the code of civil procedure, to acquire the right to construct and maintain the same.

§ 87, sub-c. 2, c.  
112, 1883.  
am'd.

§ 1152. **Penalty for injuring ditch.** Any person who shall dam up, obstruct or in any way injure any ditch so opened, shall be liable to pay to the overseer of highways of such road district double the damages caused by such injury, which shall be assessed by the jury or court and shall also be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for a period not exceeding three months, or by a fine not exceeding one hundred dollars, and such damages and fine when collected shall be, by such overseer, expended on the roads in his district.

§ 92, sub-c. 2, c.  
112, 1883.

ARTICLE 12. — ROADS ON LINE OF CITY OR VILLAGE.

§ 1153. **Roads on lines between township and city.** Whenever the supervisors of any township and the trustees or common council of any incorporated village or city shall receive a petition praying for the location of a road or for the altering or discontinuing of any road on the line between such village or city, such road shall be laid out, altered or discontinued by two or more of the supervisors of such township, and a majority of the common council or trustees of such incorporated city or village.

§ 95, sub-c. 2, c.  
112, 1883.

§ 1154. **Laws applicable.** The provisions of this chapter applicable to roads on the line between two townships shall be applicable to roads on the line between any township and an incorporated city or village.

§ 97, sub-c. 2, c.  
112, 1883.

ARTICLE 13. — LAW OF THE ROAD.

§ 1155. **Vehicles turn to the right.** Whenever persons shall meet on any bridge or road, traveling with carriages, wagons, sleds, bicycles, or other vehicles, each shall pass to the right of the middle of the traveled part of such bridge or road so that the respective carriages, or other vehicles aforesaid, may pass each other without interference.

§ 49, c.29, Pol.C.  
am'd.

- § 50, c. 29, Pol. C.    **§ 1156. Penalty for violation of last section.** Every person violating the provisions of the preceding section shall for each offense forfeit a sum not exceeding twenty-five dollars, and shall also be liable to the party injured for all damages sustained thereby.
- § 51, c. 29, Pol. C.    **§ 1157. Drunken drivers.** No person owning or having the direction or control of any coach or other vehicle running or traveling upon any road in this state for the conveyance of passengers, shall employ or continue in his employment any person to drive such coach or other vehicle who is addicted to drunkenness or to the excessive use of intoxicating liquors; and if any person shall violate the provisions of this section, he shall forfeit and pay a sum of not less than ten nor more than fifty dollars, and shall be liable for all damages sustained thereby.
- § 52, c. 29, Pol. C.    **§ 1158. Unlawful not to hitch passenger teams.** It shall be unlawful for the driver of any carriage or other vehicle used for the conveyance of passengers to leave the horses attached thereto while any passenger remains in or upon the same, without making such horses fast with a sufficient halter, rope or chain, or without some suitable person to take charge or guidance of them so as to prevent their running; and if any person shall violate the provisions of this section, he and his employer shall each forfeit and pay a sum not exceeding twenty dollars; but no prosecution shall be commenced therefor after the expiration of three months from the time of committing the offense.
- § 53, c. 29, Pol. C.    **§ 1159. Passenger conveyance. Liability of owner.** The owner of each carriage or other vehicle running or traveling upon any road or public highway for the conveyance of passengers for hire shall be liable jointly and severally with the driver of such vehicle to the party injured, in all cases, for all damages done by such driver while in the employment of such owner in driving such carriage, or other vehicle, to any person, whether the act occasioning such injury or damage was willful, negligent or otherwise.

#### ARTICLE 14.— BRIDGE PENALTIES.

- § 77, sub-c. 2, c. 112, 1883.    **§ 1160. Notices on bridges.** It shall be the duty of the county commissioners of each county of the state to cause notices to be posted at each end of all bridges in their respective counties, where the span of such bridge is fifty feet or more, stating the number of cattle, horses or other animals that may be driven onto or across such bridge at any one time.
- § 78, sub-c. 2, c. 112, 1883.    **§ 1161. Driving cattle on bridges.** Any person driving or having charge of any drove of cattle, horses or other animals who shall drive or permit more of such animals to enter upon or cross such bridge at any one time than is specified in such notice, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding one hundred dollars nor less than ten dollars.
- § 79, sub-c. 2, c. 112, 1883.    **§ 1162. Penalty for driving across bridge faster than a walk.** Whoever drives or rides upon any bridge, belonging to any incorporated bridge company or any bridge which has been or may be erected by any county or township, or upon any bridge which has been or may be erected by any individual, and upon which the notice hereinafter prescribed is conspicuously displayed, faster than a walk, shall forfeit and pay for the use and benefit of the county wherein



such bridge is located in whole or in part, as a penalty therefor, a sum not less than five nor more than ten dollars for each offense.

§ 1163. **Proceedings on complaint.** Upon complaint made to any justice of the peace in any county where such bridge is located in whole or in part, that any such offense has been committed, such justice shall issue his warrant in the usual manner, requiring the officer to whom it is directed forthwith to arrest the accused and bring him before such justice or some other justice of the county, to be dealt with according to law. § 80, sub-c. 2, c. 112, 1883.

§ 1164. **Judgment on conviction.** In all cases of conviction under the provisions of the foregoing sections the justice shall enter judgment for the fine and costs against the defendant, and may commit him until the judgment is satisfied, or issue execution upon the judgment to the use of the county. § 81, sub-c. 2, c. 112, 1883.

§ 1165. **Fine imposed only when notice is posted.** No fine shall be imposed under the provisions of this article unless there was at each end of such bridge at the time when such offense was committed, a conspicuous sign board upon which was printed the following: "Ten dollars fine for riding or driving on this bridge faster than a walk," or words importing substantially the same meaning. § 82, sub-c. 2, c. 112, 1883.

§ 1166. **Penalty for running tollgate.** When any bridge or ferry company or individual is authorized by law to collect toll for the crossing of any bridge or ferry belonging to such company or individual, any person who willfully runs the tollgate of such company or individual and passes over such bridge or ferry with the intention of avoiding the payment of the toll prescribed by law, or who refuses to pay such toll when lawfully requested so to do, shall forfeit and pay for the use and benefit of the county wherein such bridge or ferry is located a fine of five dollars for each offense, which fine shall be prosecuted for and collected, together with the costs of prosecution in the manner prescribed in the preceding section. § 83, sub-c. 2, c. 112, 1883.

#### ARTICLE 15. — FERRIES.

§ 1167. **Ferries unlawful without lease. Must be two miles apart.** It shall be unlawful for any person to establish, maintain or run upon any waters within the state any ferry upon which to convey, carry or transport any person or property for hire or reward, without first having obtained a license therefor as hereinafter provided, and where but one bank or shore is in this state, the board of county commissioners of the proper county have the same authority, and this law applies with like effect, as if the entire stream was within this state, so far as the banks and waters actually within it are concerned, and when any ferry lease has been granted no other lease shall be granted within a distance of two miles thereof across the same stream. Any person violating any of the provisions of this section shall for each offense forfeit and pay to the proper county not less than five nor more than one hundred dollars with costs to be recovered in an action in the name of the state. § 54, c.29, Pol.C.

§ 1168. **Board of county commissioners to grant lease.** The board of county commissioners of the county to whom application shall be made for a ferry in the manner hereinafter provided, is hereby authorized and it shall be its duty to grant a lease of such ferry for a term not exceeding fifteen years, to such person or persons as shall bid, and secure the payment of, the highest amount of rent § 55, c.29, Pol.C.

for the same, such lease to be executed by the board of county commissioners as lessors, and such bidder as lessee; and such board shall be empowered to extend to such person the lease so granted to any person putting in a steam ferry, at the same rate as previously paid; provided, that such extended time shall not exceed fifteen years from the time of the granting of the first lease, and when in the opinion of the board of county commissioners of the county wherein such lease is granted the rates fixed by law for crossing such ferry are too high it shall have the right to fix such rates as in its judgment may seem just.

§ 56, c.29, Pol.C.

**§ 1169. Rates of ferriage.** The rates for crossing the Missouri River on ferries shall not exceed the following:

For two horses, mules or oxen and wagon, with or without load, one dollar.

For each additional pair of horses, mules or oxen, thirty cents.

For each two horses or mules and buggy, seventy-five cents.

For each one horse or mule with buggy and driver, fifty cents.

For each horse or mule led, twenty-five cents.

For loose cattle per head, fifteen cents.

For sheep and swine per head, ten cents.

For each one hundred pounds of freight or merchandise unloaded, ten cents.

For each thousand feet of lumber unloaded, one dollar.

Each ferryman is required to keep a schedule of his legal rates posted up in a convenient place at or near his ferry, in easy view of the passing public.

§ 57, c.29, Pol.C.

**§ 1170. Ferries in unorganized counties.** The secretary of state is authorized upon application to grant a lease of any ferry in any unorganized county, for the like period and under the provisions of this chapter in every respect which are applicable thereto. The money received therefor shall be by him paid into the state treasury. All licenses granted by the secretary of state under this section shall terminate upon the organization of the county in which the same or any part thereof lies, and it shall thereafter be subject to the provisions of law relating to organized counties.

§ 58, c.29, Pol.C.

**§ 1171. Safety of ferry boats.** Each person obtaining a lease to run a ferry as aforesaid shall provide and keep in good repair a good and sufficient boat for the safe conveyance of persons or property, and when the river or creek over which the ferry is run is passable, shall, with a sufficient number of hands to work and manage the boat from sunrise till sunset and with reasonable care and promptness, convey across such ferry all persons and property presented for transportation across the same. If any lessee as aforesaid shall fail or neglect to perform all or any of the duties enjoined upon him by this and the preceding section or shall demand or receive a higher rate than is allowed in section 1169, the lessee so offending shall for each offense forfeit and pay the sum of ten dollars.

§ 59, c.29, Pol.C.

**§ 1172. Penalty for unlawful ferry.** If any person shall keep a ferry in any of the organized counties of this state without a lease from the board of county commissioners as aforesaid, the owner or person so offending shall forfeit and pay a sum of not less than fifty nor more than five hundred dollars for each year or fractional part of a year such person shall keep such ferry, to be recovered in a civil action in the name of the state.

**§ 1173. Money from ferry lease to go to school fund.** § 60, c.29, Pol.C.  
 All moneys received by the board of county commissioners upon leases granted for ferries as aforesaid, shall within thirty days after the receipt thereof be paid to the county treasurer for the use of the public schools of the county, and the same shall be apportioned among the several districts of the county in like manner as other school funds are now by law apportioned.

**§ 1174. Temporary ferries.** § 61, c.29, Pol.C.  
 Nothing in this article shall prevent any person from ferrying persons and property across any small stream in time of high water, when in the opinion of the board such stream is too small to justify a regular ferry.

**§ 1175. Forfeiture for not maintaining ferry.** § 62, c.29, Pol.C.  
 All persons, who have heretofore received either a permit, lease, grant or charter in any form, either from the legislative assembly or any tribunal or board, for the keeping of a ferry of any kind, who shall neglect or fail during the period of one month at any one time, to keep their ferry in operation for the safe transportation of persons and property over the same according to law, shall forfeit all the ferry rights, franchises and privileges, and all right, title, or claim to the same, granted by or under this law, or any former act as aforesaid; and upon due proof being made to the board of county commissioners of the proper county, of such failure or neglect, the board is authorized and empowered to declare such forfeiture absolute, and thereupon and thereafter all the rights, franchises and privileges, granted by or under this article, or any other law, shall cease and be of no force or effect.

CHAPTER 18.

REVENUE AND TAXATION.

ARTICLE 1.—EXEMPTIONS.

**§ 1176. Property subject to taxation.** § 1, c. 28, Pol. C. am'd.  
 Except as herein provided, all real property within the state of North Dakota, and all personal property owned by persons residing in the state, or used or kept therein, all moneys and credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing in the state; the property of corporations now existing or hereafter created shall be subject to taxation, and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise shall be listed and entered on the list of taxable property for that purpose, in the manner prescribed by this chapter.

**§ 1177. Property exempt from taxation.** § 2, c. 28, Pol. C. am'd.  
 The following classes of property shall be exempt from taxation, and may be omitted from the list herein required to be given:

1. The property of the United States, and of this state, including school lands and bonds and securities of the United States.
2. The property of a county, incorporated city or village or school district when devoted to public use and not held or used for pecuniary profit.
3. Public grounds, including all grounds owned by any agricultural fair association, not exceeding forty acres and used exclusively for

agricultural exhibitions, and all places set apart for the burial of the dead.

4. The engine and implements used for the extinguishment of fires, with the grounds used exclusively for their buildings and for the meeting of fire companies, and the grounds and buildings of militia companies which are used exclusively for armory purposes.

5. The grounds and buildings of library, scientific, educational, benevolent and religious institutions, colleges or societies, devoted solely to the appropriate objects of these institutions, not exceeding ten acres in extent, and not leased or otherwise used with a view to pecuniary profit.

6. The books, papers, furniture, scientific or other apparatus pertaining to the above institutions, and used solely for the purpose above contemplated, and the like property of students, used in any such institution used for the purpose of their education.

7. Moneys and credits belonging exclusively to such institutions and devoted solely to sustaining them, but not to exceed in amount of total valuation, aside from the property of the students above named, the sum prescribed in their charter or act or articles of incorporation.

8. All animals not specified in the next section.

9. All public libraries.

10. All family pictures.

11. The polls or estates, or both, of persons who by reason of age or infirmity may, in the judgment of the assessor, be unable to contribute to the public charge; such opinion being subject to revision by the board of county commissioners.

12. All improvements made on real property by setting out either forest or fruit trees, shrubbery or vineyards, the same not to be considered as increasing the value of the land for taxation.

13. All pensions from the United States or from any of the states of the union.

14. The polls of all active members in good standing of any regularly organized volunteer fire company, not exceeding thirty in number in cities or towns of more than three hundred inhabitants; provided, that such fire companies actually and in good faith possess apparatus for the extinguishment of fires, exceeding five hundred dollars in value, to be determined by the assessor.

## ARTICLE 2.—TAXABLE PROPERTY.

§ 3, c. 28, Pol. C.  
am'd.

§ 1178. **Classes of property subject to taxation.** All other property, real or personal, shall be subject to taxation in the manner provided in this chapter, including:

1. All lands, and all lots in towns, villages and cities, including lands bought from or donated by the United States and from the state, and whether bought on credit or otherwise. In assessing any tract or lot of real property the value of the land exclusive of improvements shall be determined; also, the value of all improvements and structures thereon and the aggregate value of the property including all structures and other improvements excluding the value of crops growing upon cultivated lands.

2. Ferry franchises, toll bridges and toll roads, which for the purposes of this chapter are to be considered as real property.

3. Lands which are pledged as security for debt by mortgage or otherwise at their actual cash value without any regard whatever to the amount of any such mortgage or incumbrance.

4. Horses and neat cattle, mules and asses, sheep and swine; provided, however, that no full-blood, thoroughbred or standard-bred animal of any of the classes mentioned in this subdivision shall be considered of greater value for the purposes of taxation than common or grade of the same classes respectively.

5. Moneys, whether in possession or on deposit.

6. All credits, whether money, property, or labor due from solvent debtors on contract or in judgment, and whether within this state or not.

7. All stocks or shares held by any person or body corporate in any bank or company incorporated under the laws of this state, or pursuant to the provisions of the acts of congress providing a national currency secured by the pledge of the United States stocks or bonds, and providing for the circulation and redemption thereof, situated in or transacting business in this state. Promissory notes, mortgages and all other securities whether bearing interest or not.

8. All public stocks and loans, not including the bonds or securities of the United States.

9. All gold and silver plate, musical instruments, watches and jewelry.

10. All pleasure carriages, stage hacks, omnibuses and other vehicles for transporting passengers, all wagons, carts, drays, sleighs and every other description of vehicle or carriage.

11. All plows, harrows, reaping and mowing machines, harvesters, steam engines, horse powers, grain threshers and separators and all other implements and machinery appertaining to agricultural labor.

12. Boats and vessels of every description, wherever registered or licensed and whether navigating the waters of this state solely or not, if owned wholly or in part by persons who are inhabitants of this state, for the whole or part so owned by the inhabitant of this state.

13. Annuities, but not including pensions from the United States or any other state of the union.

14. All manufactories, including building, machinery and materials.

15. All property, real or personal, within the state, in possession of, or under the control of, or held for sale by any warehouseman, agent, factor or representative in any capacity, or any manufacturer, dealer or other agent of any such manufacturer or dealer in agricultural implements, or machinery, or other goods, wares or merchandise.

16. Personal property of every description belonging to persons or companies doing freighting or transporting business within this state.

17. All household furniture in excess of twenty-five dollars in value.

18. All other property, real or personal, of any kind, not by this chapter specially exempt; and for the purposes of taxation real property shall be regarded as including the ownership or claim to, or possession of, or right of possession to any lands or mines in this state, or to any improvements thereon; and for the purposes of this chapter land shall cease to be government land when the final receipt of the receiver of the United States land office is issued upon entry thereof.

ARTICLE 3. — MANNER OF LISTING PROPERTY.

§ 4, c. 28, Pol. C.  
am'd.

**§ 1179. Commissioners to provide notices and blanks.**  
On or before the first day of March of each year, the board of county commissioners of each county shall provide for the use of the assessor of said district suitable notices and blank forms for the listing and assessment of all property, and such instructions as shall be needed to secure full and uniform assessment and returns; and it shall be the duty of the state auditor on or before the first day of February of each year to prepare and send to the county auditor of each county suitable forms to be used as copies in the preparation of such blanks.

**§ 1180. Auditor to furnish assessors notices and blanks.**  
It shall be the duty of the county auditor to furnish to the assessors, with the notices and blanks provided for in the preceding section, a list of all the lands which have become taxable during the preceding year in their respective districts.

§§ 5, 6, c. 28.  
Pol. C.  
am'd.

**§ 1181. List of taxable property, contains what.** The list of taxable property assessed to each person shall contain:

1. His lands by township, range and section, and any division or part of a section, or numbered fractional lot of any section lying in the commissioner district or township in which the list is required. And when such parcel of land is not a congressional division or subdivision, it shall be listed and described in some other mode sufficient to identify it.
2. His town lots, naming the town or city in which they are situated, and their proper description by number and block, or otherwise, according to the system of numbering the town.
3. His right and title in any ferry franchise, toll bridge, toll road, or part thereof, by the total and actual cash value of the same.
4. The value of all buildings, machinery, and material used in manufacturing, and all appurtenances thereunto belonging.
5. Number of horses, one year old, two years old, three years old and over.
6. Number of mules and asses, one year old, two years old, three years old and over.
7. Number of neat cattle, one year old, two years old; number of cows, number of work oxen and number of all other neat cattle.
8. Number of sheep over six months old.
9. Number of swine over six months old.
10. Number of carriages and vehicles of every description.
11. Value of all implements used in agriculture.
12. Amount of money and credits, including the actual and total cash value of all such credits, notes and accounts.
13. All gold and silver plate, musical instruments, watches and jewelry.
14. Amount of stock or shares in any bank or banking association or incorporated company.
15. Amount and description and value of all property, machinery, merchandise held and controlled as agent of any manufacturing company.
16. Value of all private libraries.
17. All real property sold by any party or corporation under any form of grant or conveyance, or contract therefor, to which the vendor had or has an inchoate, contingent or equitable title, right or claim.

and which is in the name, possession or use of any vendee, who has voluntarily taken such grant or contracts for such title, right or claim; provided, that nothing herein shall be construed to hold as taxable any lands held under the homestead, pre-emption or timber culture laws of the United States before final receiver's receipt issued for the same.

18. All household furniture.

19. All other property not specifically enumerated in this section, except such as is specially exempted by this chapter.

The above list of items may be extended at the discretion of the state auditor or the board of county commissioners, so as to obtain such facts as they may deem desirable.

**§ 1182. Property listed, by whom, when and how.** All taxable property, real and personal, shall be listed and assessed each year in the name of the persons who were the owners thereof on the first day of April of each year, including all property purchased on that day, and at its cash value on that date, and such property shall be listed and assessed by the assessors as soon as practicable on or after the first day of April. And in order to make such assessment, such assessor shall demand from each person and firm, and from the president, cashier, treasurer or managing agent of each corporation, association or company within his district, excepting incorporated banks or banking associations, a statement under oath or affirmation of all the real estate within his district or township, and personal property owned by, claimed, or in the use, possession or control of such person, firm or corporation, association or company on said first day of April. If any person, firm or officer or agent shall neglect or refuse, on demand of the assessor, to give, under oath or affirmation, the statement required by this chapter, the assessor shall ascertain and estimate from the best information he can obtain, the number, amount and cash value of all the several pieces of property required, and shall list the same accordingly.

§ 8. c. 28, Pol. C.  
am'd.

**§ 1183. Agent to list property. Liability for failure.** Any person acting as the agent of another, and having in his possession or under his control or management any moneys, notes, credits or personal property belonging to such other person with a view of investing or loaning, or in any other manner using the same for pecuniary profit, shall be required to list the same, and such agents shall be personally liable for the tax on the same, and if he refuses to render the list or to swear to the same, the amount of such money, property, notes and credits may be listed and valued according to the best knowledge and judgment of the assessor.

**§ 1184. Bank stock to be listed by cashier.** The cashier or principal accounting officer of each bank, whether incorporated under the laws of this state or not, and of each national bank incorporated or doing business under the laws of the United States shall list the shares of the bank or association, giving the assessor the name of each person owning shares and the number of shares owned by each, which shares shall be assessed at their true cash value, and for the purpose of securing the collection of taxes assessed upon said shares, each bank or banking association shall be required to pay the same, as agents of the shareholders, under the provisions of section 1183. And the bank or banking association shall retain so much of any dividends belonging to any shares or stocks thereof; and such bank or banking association shall have a lien upon the stock owned

by such shareholder for the amount of any and all taxes levied upon such shares, until such tax shall be paid by the shareholder, or until the bank shall be fully indemnified.

§ 1185. **National bank stock, how listed.** If at any time congress shall amend the acts aforesaid relating to national banks, then each assessor shall assess the shares in any such national bank in such manner as to conform to such amended act of congress.

§ 1186. **Elevators personal property and listed to owner.** All elevators, warehouse or grain houses, and all machinery and fixtures and grain therein, situated upon the line of any railroad corporation in this state, shall be taken and deemed to be for all purposes of taxation personal property, and the same shall be listed and assessed in valuation in the town or district in which such elevator, warehouse, grain house, machinery or fixtures may be situated, and shall be listed and assessed in the name of the owner, if known, and if not known, the same shall be listed and assessed to "owner unknown," and all taxes assessed upon such property shall be paid to the county treasurer of the county where such property is situated.

§ 1187. **Buildings on right of way, personal property.** All buildings and other property situated upon the line or right of way of any railroad company in this state, and which buildings and property are not owned, operated and exclusively used in and about the prosecution of the business of such railroad companies as common carriers, shall be taken and deemed to be for all purposes of taxation personal property, and the same shall be listed and assessed as provided by law for the assessment of such personal property, except as otherwise provided in this chapter.

§ 9, c. 28, Pol. C.

§ 1188. **Assessor may estimate value, when. Oath.** If the owner of any property not listed by any other person shall be absent or unknown, the assessor shall ascertain and estimate the value thereof, and if the name of such owner is known to the assessor, the property shall be assessed in his name; if unknown to the assessor, the property shall be assessed to "unknown owners." The list shall be signed and sworn to by the person making it, and the oath thereto may be administered by the assessor or his deputy, or by any other officer authorized to administer oaths, and shall be certified by him, and the oath may be printed upon the blank form, and shall be in substance as follows:

I, A. B., do solemnly swear (or affirm) that I have listed above and within all the lands, town and city lots, personal property, money, stocks, shares and credits, subject by law to taxation and owned, used, possessed or controlled by me, or by law required to be listed by me for another person or persons, as guardian, husband, parent, trustee, executor, administrator, receiver, cashier, accounting officer, partner, factor, bailee or agent, according to the best of my knowledge.

§ 10, c. 28, Pol. C.  
am'd.

§ 1189. **Assessor may examine under oath, when.** Whenever the assessor shall be of opinion that the person listing property for himself, or for another person, company or corporation has not made a full, fair and complete list of such property, he may examine such person under oath in regard to the amount of property he is required to list, and if such person shall refuse to answer under oath and a full discovery make, the assessor may list the property of such person or his principal according to his best judgment and information, and the assessor shall make a minute of the name of such person refusing to swear or affirm to such list or to testify in relation to



the property and a full discovery make, and shall note the same on the list and return the same to the board of county commissioners, and the said board shall add fifty per cent thereof to the amount of the property returned by the assessor as the list of the person so refusing to swear or affirm.

§ 1190. **Statements of persons refusing to swear.** The said statements of persons refusing to swear or affirm shall be indorsed with the name of the person whose property is therein listed, and the assessor shall file them in alphabetical order and return them to the office of the county auditor by the first Monday of July next ensuing, at which time, or before, he shall also prepare and deliver his assessment roll. All property is to be valued by the assessor except as is herein required to be valued by the owner, agent or other person having control of the same. § 11, c. 28, Pol.C.

§ 1191. **Oath of assessor. Form.** The assessor shall take and subscribe an oath, to be certified by the officer administering it, and attached to the assessment roll, which oath is to be in substance as follows: § 12, c. 28, Pol.C.

I, A. B., (district or township assessor, as the case may be) in and for the county of....., state of North Dakota, do solemnly swear that the value of all property, moneys and credits of which a statement has been made and verified by the oath of the person required to list the same, is hereby truly returned as set forth in such statement; that in every case where I have been required to ascertain the amount or value of the property of any person or body corporate, I have diligently and by the best means in my power endeavored to ascertain the true amount and value, and that, as I verily believe, the full cash value thereof is set forth in the above returns. And that in no case have I knowingly omitted to demand of any person of whom I was required to make it, a statement of the amount and cash value of his property which he was required by law to list, nor have I connived at any violation or evasion of any of the requirements of the law in relation to the assessments of property for taxation.

§ 1192. **Penalty for false listing.** If any person shall willfully make or give under oath or affirmation, a false list of his taxable property, or a false list of the taxable property in his use or possession or under his control, and required by law to be listed by him, or shall willfully affix thereto less than the cash valuation thereof, such person shall be deemed guilty of perjury; and upon conviction thereof, shall be punished therefor as is by law provided for the punishment of perjury. § 13, c. 28, Pol.C. am'd.

§ 1193. **Penalty for willful omission or undervaluation.** When the party required to list property and affix the value thereto, shall willfully omit property which he should list, or shall affix thereto a less than the cash valuation thereof, with the knowledge of the assessor, or where the assessor required shall willfully affix to property of any kind a valuation less than the cash valuation thereof, such assessor shall be deemed guilty of perjury, and in addition thereto shall for each offense forfeit the sum of ten dollars, to be deducted from his compensation by the board of county commissioners or township supervisors, as the case may be.

§ 1194. **"Credits" defined.** The term "credits," as used in this chapter, includes every claim and demand for money, labor or other valuable thing, and every annuity or sum of money receivable at § 14, c. 28, Pol.C. am'd.

stated periods, and all moneys in property of any kind, and secured by deed, mortgage or otherwise; but pensions from the United States, or any state, or bonds and securities of the United States are not included in the above terms.

§ 15, c.28, Pol.C.  
am'd.

**§ 1195. Property listed, how and by whom.** Every inhabitant of this state of full age and sound mind, unless excepted by the provisions of this chapter, shall list all property subject to taxation in this state, of which he is the owner, or has the control or management in the manner herein directed; but the property of a ward is to be listed by his guardian; of a minor, having no other guardian, by his father, if living; if not, then by the person having the property in charge; of a married woman, by herself, but if she is unable or refuses, then by her husband; of a beneficiary for whom property is held in trust, by the trustee; the personal property of a decedent, by the executor, administrators or heirs; of a body corporate, company, society or partnership, by the cashier, principal accounting officer, agent or partner; property under mortgage or lease, to be listed by and taxed to the mortgagor or lessor, unless it is listed by the mortgagee or lessee; property assigned for the benefit of creditors, and property in the hands of a receiver, by the assignee or receiver.

§ 16, c.28, Pol.C.  
am'd.

**§ 1196. Commission merchants and consignees list in their own names, when.** Commission merchants, and all persons trading or dealing on commission, and consignees authorized to sell, when the owner of the goods does not reside in the state, are, for the purpose of taxation, required to list in their own names all the property in their possession.

§ 17, c.28, Pol.C.  
am'd.

**§ 1197. Personal property of nonresidents, where listed. Penalty.** In listing personal property, if the owner thereof resides out of the state, it is to be listed and taxed where it may be at the time of listing, except as herein otherwise provided, and, if in possession of an agent or person having charge thereof, and such agent or other person shall neglect to list it, he will be subject to the penalties herein provided:

§ 18, c.28, Pol.C.  
am'd.

**§ 1198. Listing by agent. Property of a deceased.** A person required to list property in behalf of another shall list in the same district in which he would be required to list it if it was his own, except as herein otherwise directed. But he must list it separate from his own, naming the person to whom it belongs. But the undivided property of a person deceased, belonging to his heirs, may be listed as belonging to such heirs without enumerating them.

**§ 1199. Telephone property, where listed.** All telephone property within this state, including lines, instruments of every kind, office furniture, etc., owned, managed or constructed by companies, associations, partnerships or individuals, shall be listed and assessed at its true cash value, in the county where situated.

§ 20, c.28, Pol.C.

**§ 1200. Property and credits in two or more counties, where listed.** When a person is doing business in more than one county, the property and credits existing in any one of the counties are to be listed and taxed in that county, and credits not existing in, nor pertaining especially to, the business in any county, are to be listed and taxed in that county where his principal place of business may be. Each individual of a partnership is liable for the taxes due from the firm.

§ 1201. **Range stock, where listed.** The owner of range stock, including cattle, horses or sheep, or his agent, foreman or superintendent, shall list the same for purposes of assessment and taxation in the commissioner district or township in which he claims his home ranch for rounding and branding purposes, and where his herdsmen or employees are boarded and subsisted, regardless of where the cattle may range.

§ 1202. **Range stock of nonresidents, where listed.** If such owner of range stock, including horses, cattle or sheep, has at the time the assessment is made, no such home ranch, then such range stock shall be listed in the commissioner district or township in which the home ranch was situated at the last round-up and branding; provided, that any such stock, owned outside of this state, and ranging within this state, shall be assessed wherever and whenever found ranging within this state.

§ 1203. **Range stock in unorganized counties, where listed.** When the home ranch of any owner of range stock is situated in an unorganized county of this state, such range stock shall be subject to taxation in the organized county to which it is attached for judicial purposes, and shall be listed and assessed by the assessor of the commissioner district or township lying in closest proximity to such home ranch.

§ 1204. **Combination for undervaluation. Penalty.** If any assessor or county commissioner shall enter into any contract, agreement or understanding with the owner of any range stock, whereby and pursuant to which such stock are to be assessed at less than their cash value, in consideration that the owner of such range stock shall remove his home ranch into the county of such assessor or commissioner, such assessor or commissioner and the owner of such range stock and all persons aiding or abetting such corrupt transaction and agreement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, and by imprisonment in the county jail for not less than three months, nor more than six months.

§ 1205. **"Merchant" defined.** Any person owning or having in his possession or control in this state, with authority to sell the same, any personal property, purchased either within or without the state, with a view of selling the same at an advanced price or profit, or which has been consigned to him for the purpose of being sold within the state, shall be held to be a merchant for the purposes of this chapter; such property shall be listed for taxation to said merchant, and in estimating the value thereof, the merchant shall take the value of such property in his possession or control on the first day of April next preceding the time for making the assessment. § 24, c. 23, Pol.C.

§ 1206. **"Manufacturer" defined.** Any person who purchases, receives or holds property of any description for the purpose of adding value thereto by any process of manufacturing, refining, purifying, or by the combination of different materials, with a view of making gain or profit by so doing, and by selling the same, shall be held to be a manufacturer for the purposes of this chapter, and he shall list for taxation the value of such property in his hands, estimated as directed in the previous section in case of merchants, but the value shall be estimated upon the materials only entering into the combination or manufacture; provided, that the completed product of such process, held § 25, c. 23, Pol.C. am'd.

by the manufacturer for sale shall be regarded as merchandise, and assessed at its value as such.

**§ 1207. Values, how determined. Exception.** The values of all property, real and personal, listed for taxation, shall be determined and affixed by the assessor; provided, that the value of stocks, bonds, notes, mortgages, credits, securities, annuities and other property, the value of which is peculiarly within the knowledge of the owner or person listing the same, may be given by him, subject to review by the assessor. But this proviso shall not apply to any live stock, real estate, nor to the stock or shares in banking or mining associations or corporations doing business in this state.

**§ 1208. Assessor to give notice of equalization.** The assessor shall, before administering the oath or affirmation as provided in section 1188, to the person listing the property, inform him of the valuation put upon his property, and notify him, if he feels aggrieved thereby, to appear before the board of county commissioners, when in session for the purpose of equalizing the assessment, and show cause, if any he has, why the same should be changed.

§ 26, c. 28, Pol.C.  
am'd.

**§ 1209. Assessor to deliver assessment roll. Contents of.** On or before the first Monday of July, annually, the several district assessors shall make out and deliver to the county auditor an assessment roll, consisting of the following items:

1. A list of all the taxable lands in their respective districts in numerical order, beginning at the lowest numbered section in the lowest numbered township in the lowest numbered range in the county, and ending in the highest numbered section, township and range, with the number of acres in each tract set opposite the name in a column provided for that purpose, and the assessed value thereof in another column, with the columns of acres and values footed up; also stating the number of the school and road district in which such property and the owner thereof is situated. Such list shall be, as nearly as practicable in the following form:

RETURN OF TAXABLE LANDS IN ASSESSOR DISTRICT NO. .... IN .....  
COUNTY, NORTH DAKOTA, FOR THE YEAR .....

Owner's Name.	Part of Section.	Section.	Township.	Range.	Acres.	Value of Land.	Value of structures and improvements.	Total Value.

2. A list of all town lots in each town or city in their respective districts, in like numerical order, with the valuation of each lot or part of lot, and the name of the person listing the same opposite, with the column of values footed up, substantially in the following form:

RETURN OF LOTS IN THE CITY OR TOWN OF.....IN.....  
 COUNTY OF THE STATE OF NORTH DAKOTA, ASSESSED FOR THE YEAR.....

Owner's Name.	Town or City.	Block.	Lot.	Value of Lot.	Value of structures and Improvem'ts	Total Value.

3. A list in alphabetical order of all persons and bodies corporate in whose names any property or anything taxable, other than the real estate, has been listed, with a sufficient number of columns opposite each name in which to enter the numbers or values, or both, of the several species of property, or other interests required by law to be listed, with the columns of numbers and values footed up. Such list shall be as nearly as practicable in the following form:

Names.	Horses.			Mules & Asses.			Cattle.										Remarks.																
	Merchandise.	Manufactures.	1 Year Old.	1 Year Old.	2 Years Old.	3 Years Old and Over.	1 Year Old.	2 Years Old.	3 Years Old and Over.	1 Year Old.	2 Years Old.	3 Years Old.	Value.	Cows.	Value.	All Other Cattle.		Value.	Sheep.	Value.	Swine.	Value.	Carriages.	Value.	Agricultural Imple.	Value.	Money and Credits.	Stock or Shares.	Other Personality.	Total.	Poll Tax.		

§ 1210. Refusal to list. Duty of assessor. In every case where a person is required to list property for himself, or in behalf of another, if he shall neglect or refuse to list the same, the assessor shall proceed as directed in section 1189, and in the return of personal property, opposite the name of each person, he shall write the words "by the assessor," when the list was made by himself or his deputy, together with the words, "absent" or "sick" or "refused to swear," or "to answer an examination," or such other words as will express the cause why the person required to make the list did not make it; and a neglect to make it shall be taken as a refusal to do so. § 27, c. 28, Pol.C. am'd.

ARTICLE 4. — BOARDS OF EQUALIZATION.

§ 1211. Township, city, village equalization. Meetings. Duties of boards. The board of supervisors of each town, the recorder and president of each incorporated village and the assessor, recorder and mayor of each city, except cities whose charters provide for a board of equalization, shall meet on the fourth Monday of June at the office of the town clerk or recorder or city clerk or auditor for § 39, c. 132, 1890.

the purpose of reviewing the assessment of property in each town or district and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor, and in case any property, real or personal, shall have been omitted by inadvertence or otherwise, it shall be the duty of the said board to place the same upon the list with the true value thereof, and proceed to correct the assessment so that each tract or lot of real property and each article, parcel or class of personal property shall be entered on the assessment list at the true value thereof, but the assessment of the property of any person shall not be raised until each person shall have been duly notified of the intent of the board so to do, and, on the application of any person considering himself aggrieved, they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all cases presented on that day; provided, that they shall complete the equalization within six days. All complaints and grievances of individuals, residents of the town or district in reference to the assessment of personal property shall be heard and decided by the town board; provided, that the complaints of non-residents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review shall be heard and determined by the county board.

§ 40, c. 132, 1890.

**§ 1212. Assessor to give notice of equalization.** The assessor shall cause at least ten days' previous notice of the time and place of the meeting of the town board of review, by posting notice in at least three public places in each town or district, but the failure to give such notice or hold such meeting, shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied.

§ 28, c. 28, Pol. C.  
am'd.

**§ 1213. County equalization board. Meetings of.** It shall be the duty of the board of county commissioners of each county, at its regular meeting in July of each year, to devote the first two days, or more if necessary, of such meeting to the proper equalizing and correcting of the assessment roll in its county; and in order to equalize and correct such assessment roll, it may change the valuation and assessment of any property, real and personal, upon the roll by increasing or diminishing the assessed valuation thereof, as shall be reasonable, and so as to render taxation uniform.

§ 29, c. 28, Pol. C.  
am'd.

**§ 1214. Rules for equalization.** The said board of county commissioners must also place upon and add to the assessment roll any property, real or personal, subject to taxation, which has been omitted therefrom by the owner or by the assessor, and enter for the same a reasonable, just and uniform valuation; provided, that no such property shall be added to the assessment roll by the county commissioners until notice of their intention so to do shall be given to the owner thereof. During the session of said board, any person or his attorney or agent, feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any alleged errors in the listing or valuation of his property, whether real or personal, and the board may correct the same as shall be just, and if any person returned as refusing to render a list, or to be sworn thereto, or to the list of the property of another returnable by him, can show good

cause for such failure or refusal, the penalty herein provided may be remitted; provided, that in equalizing the assessment of all property, personal and real, said board must be governed by the value of such property on the first day of April preceding, or, if that cannot be reasonably and justly ascertained, by its average value during the year.

**§ 1215. Abstract of assessment, contents of Auditor.** § 31, c.23, Pol.C. am'd.

As soon as practicable, after the assessment rolls are equalized and corrected, as provided in the preceding two sections, and before the third Monday in July next ensuing, the county auditor shall make out an abstract thereof containing:

1. The whole number of acres of land listed in the county and the total value thereof.
2. The total valuation of town and city lots.
3. The amount of property invested in merchandise.
4. The amount of property invested in manufactures.
5. The number of horses one year old and their total value.
6. The number of horses two years old and their total value.
7. The number of horses three years old or over and their total value.
8. The number of mules and asses one year old and their total value.
9. The number of mules and asses two years old and their total value.
10. The number of mules and asses three years old or over and their total value.
11. The number of neat cattle one year old and their total value.
12. The number of neat cattle two years old and their total value.
13. The number of cows and their total value.
14. The number of other neat cattle and their total value.
15. The number of sheep and their total value.
16. The number of swine and their total value.
17. The number of carriages and vehicles of every kind and their total value.
18. The total value of agricultural implements.
19. The total value of moneys and credits.
20. The total value of stocks and shares.
21. The total value of all other personal property, not enumerated under the foregoing heads.

Which abstract the clerk is directed to transmit without delay to the auditor of the state, and the county commissioners are authorized to direct the auditor to add to the above list of items as they may deem advisable; and it shall be the duty of the auditor of the state, to furnish such forms for the use of the county commissioners, assessors, auditors and other officers of the revenue as shall secure uniformity of proceedings and returns throughout the state.

**§ 1216. State board of equalization. Meetings. Duties.** § 46, c. 132, 1890. am'd.

**Rules.** The governor, state auditor, attorney general, commissioner of agriculture and labor and state treasurer, shall constitute the state board of equalization, and said board of equalization shall hold a session at the capital of the state, commencing on the second Monday of August of each year, and it shall be the duty of said board to examine the various county assessments and to decide upon the rate of the state tax to be levied for the current year, together with any other general or special state taxes required by law to be levied, and

they shall examine and compare the returns of the assessment of the property in the several counties of the state and proceed to equalize the same, so that all the taxable property in the state shall be assessed at its true and full value. In the performance of their duties they shall be governed by the following rules:

1. They shall add to the aggregate valuation of the real property of every county, which they believe to be valued below its true and full value in money, such per cent in each case as will bring the same to its true and full value in money.

2. They shall deduct from the aggregate valuation of the real property of every county which they believe to be valued above its true and full value in money, such per cent in each case as will reduce the same to its true and full value in money.

3. They shall take from the aggregate valuation of any class of personal property in any county, which they believe to be valued above the full and true value thereof, such per cent as will reduce the same to its true and full value in money.

4. They shall add to the aggregate valuation of any class of personal property in any county, which they believe to be valued below the full and true value thereof, such per cent in each case as will raise the same to its true value in money.

5. They shall not reduce the aggregate valuation of all property in the state, as returned by the several county auditors.

#### ARTICLE 5. — RATE OF TAXATION AND LEVY.

§ 33, c. 28, Pol. C.  
am'd.

**§ 1217. Tax rate of state and county. Road tax. Sinking fund.** The rate of the general state tax shall not be more than four mills on the dollar valuation; and for ordinary county revenue, including the support of the poor, not more than six mills on the dollar; and for roads and bridges, a poll tax of one dollar and a half, or one day's work, on every male person between the ages of twenty-one and fifty years; a bridge tax not to exceed two mills on the dollar; and a road tax, not exceeding two mills on the dollar valuation, to be paid in money or in labor at the rate of one dollar and a half per day, at the option of the person taxed, and the certificate that the person named therein has actually performed eight hours labor for each day's work so certified, shall be received by the county treasurer in discharge of said tax to the amount so certified; and a further tax of not to exceed two mills on the dollar upon all taxable property in the county; for county sinking fund such rate as may be fixed by any funding act passed by the legislative assembly, or in the absence of a provision in any such act, then such rate as in the estimation of the board of county commissioners will pay one year's interest on all the outstanding debts of the county, with twelve per cent on the principal sum as may be provided in any funding act.

§ 34, c. 28, Pol. C.  
am'd.

**§ 1218. State auditor to transmit rate to county auditor.** On or before the fourth Monday in August in each year, the state auditor is required to transmit to the county auditor of each county a statement of the rate of taxation required in said county for the general state tax, as directed to be levied and collected by the state board of equalization. Should the state board of equalization fail to fix the rate of taxation in any or all of the counties, then the auditor is required to notify the county auditors of the rate to be levied and collected in such county or counties, which must not exceed four



mills on the dollar for state purposes, and one mill on the dollar for the payment of interest on public debts, and it must be in mills or tenths of mills and uniform for all the counties.

§ 1219. **County tax levy, when made.** On the first Monday in September of each year the board of county commissioners must meet at the county seat to levy the necessary taxes for the current fiscal year, and they may levy the taxes at any time after the first Monday in September, if the statement from the state board of equalization has not been received, but such levy must not be postponed for more than ten days, and they shall levy the taxes as herein directed. § 35, c. 28, Pol. C. am'd.

§ 1220. **State rate determined, how.** The rate of the general state tax shall be as directed by the state board of equalization, or by the state auditor; but in case the statement of the levy of such taxes, as hereinbefore directed has not been received by the county auditors within ten days after the said first Monday in September, then the said board of county commissioners shall levy the general state tax at the rate of four mills on the dollar valuation. § 36, c. 28, Pol. C. am'd.

§ 1221. **County auditor to make duplicate tax lists.** As soon as practicable after the taxes are levied the county auditor shall make out a tax list in duplicate, transcribing the assessment of the several districts into a suitable book to be provided at the expense of the county, properly ruled and headed with distinct columns, in which there shall be entered the names of the taxpayers, description of land, number of acres, of valuation, number of town lots and value of personal property, each description of tax with a column for polls, one for total tax and one for payment, leaving a margin for remarks; provided, that all taxes which are uniform throughout the county shall be formed into a single tax, entered upon the tax list in a single column, and denominated a consolidated tax, and each tax receipt shall show the percentage levied for each separate fund. § 37, c. 28, Pol. C. am'd.

§ 1222. **Duty of auditor. Lists furnished.** It shall be the duty of the county auditor in every county within the state having any organized townships to furnish to the town clerk of every township on or before the first day of December in each year, a complete list of all the land assessed in the township of which he is clerk, together with the name of the owners of each piece of land and the amount of taxes against each piece of land. Also a list of the names of each person or company owning any personal property in said township and the amount of personal taxes against each person or company. § 1, c. 41, 1895.

§ 1223. **Indorsement of tax list. Warrant for collection.** An indorsement is required to be made upon the duplicate tax lists showing what they are and for what county and year they are made, and the county commissioners shall attach to said duplicate lists their warrants under their hand and official seal in general terms, requiring the treasurer to collect the taxes therein levied according to law, and no informality therein, and no delay in the delivery of the same after the time herein specified shall render any proceeding for the collection of taxes illegal, and the county auditor shall, on or before the first Monday of December following of each year, deliver one of the aforesaid duplicate tax lists to the county treasurer, with the warrant of the county commissioners attached, and take his receipt therefor, and such list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained. § 40, c. 28, Pol. C. am'd.

ARTICLE G.—THE COUNTY TREASURER AND HIS DUTIES.

§ 1224. **Treasurer to enter delinquent taxes on list.** The treasurer, on receiving the tax list from the county for each year, shall enter upon the same in separate columns opposite each parcel of real property or person's name, on which or against whom any tax remains unpaid for either of the preceding years, the year or years for which such delinquent tax so remains due and unpaid, and the amount for each year, and any sale for the whole or any part of such delinquent tax not so entered shall be invalid.

§ 41, c.28, Pol.C.  
am'd.

§ 1225. **Treasurer to collect and receipt for taxes.** The county treasurer of each county shall attend at the county seat at all times to receive the taxes due and unpaid, and is authorized and required to collect, so far as practicable, the taxes remaining unpaid on the list of the former year or years.

§ 52, c. 132, 1890.  
am'd.

§ 1226. **Treasurer shall collect all taxes, fines and penalties. Deputies.** The county treasurer shall be the collector of all taxes assessed upon the duplicate in his county, whether assessed for state, county, city, town, township, school, poor, bridge, road or other purposes; and also of all fines, forfeitures or penalties received by any person or officer for the use of his county, and he shall also proceed to collect the same according to law, and to place the same, when collected, to the credit of the county. But this provision shall not be so construed as to include any fines or penalties accruing to any municipal corporation for the violation of its ordinances and which was recovered before any city justice. Each county treasurer may appoint one or more deputies to assist him in the collection of taxes, and may take such bond and security from the person so appointed as he deems necessary for his indemnity, and shall in all cases be liable and accountable for the proceedings and misconduct of his deputies in office.

§ 42, c.28, Pol.C.

§ 1227. **Warrants to be received for taxes.** State warrants are receivable for the amount payable into the state treasury on account of the general state tax, and county warrants are receivable at the treasury, except when otherwise provided by law; and city warrants shall be received for city taxes, but United States treasury notes, or their equivalent only, are receivable for such taxes as are or may be required by law to be paid in cash, and road and poll taxes may be discharged as provided in this chapter.

§ 43, c.28, Pol.C.  
am'd.

§ 1228. **Duplicate receipts, disposition of.** Whenever any taxes are paid to the county treasurer, the treasurer shall make out duplicate receipts for the same, which duplicate receipts shall correspond in number, date, amount, and in every respect shall be precise copies of each other, one of which shall be delivered to the person paying such taxes, and the other shall, within seven days after the close of business each day, be filed by the treasurer with the county auditor, as hereinafter directed, and such duplicate receipts shall specify the land or other property upon which such tax was assessed, according to the description on the tax duplicate, or in some sufficient manner, and shall also specify the amount in manner and form as appears on the tax list.

§ 45, c.28, Pol.C.  
am'd.

§ 1229. **Tax receipts. Auditor to charge treasurer.** It shall be the duty of the county auditor, on receiving any duplicate tax receipt from the treasurer, forthwith to examine the same and compare it with the tax list in his possession and see if the total

amount of taxes and the several amounts of the different funds are correctly entered and set forth in such receipt, and in case it shall appear that the treasurer has not collected the full amount of the taxes and interest which, according to the tax list and terms of the receipt, he should have collected, then the county auditor shall forthwith charge the treasurer with the amount such receipt falls short of the true amount, and the treasurer shall be liable on his official bond to account for and pay over the same.

**§ 1230. Tax receipts, consecutively numbered each year.** § 48, c. 28, Pol. C.

All tax receipts issued by the county treasurer shall be numbered consecutively, commencing with number one on the first receipt issued for the taxes of any one year, and he shall not receipt for more than one year's taxes on the same property in one tax receipt, but shall keep a separate and distinct series of numbers of receipts issued for the taxes of each year, for which the same has been levied and assessed in this state.

**§ 1231. Duty of auditor and treasurer when taxes paid.** § 47, c. 28, Pol. C.

Whenever any taxes are paid the treasurer shall write on the tax duplicate, opposite the description of the real estate or property whereon the same was levied, the word "paid," together with the date of such payment and the name of the person paying the same, and the county auditor on receiving the duplicate receipts shall forthwith make the same entries on the tax list in his possession.

**§ 1232. Treasurer to keep a cash book.** The county treasurer is required to keep a cash book, in which he shall enter an account of all the moneys by him received, specifying, in proper columns provided for that purpose, the date of the payment, the number of the receipt issued therefor, by whom paid, and the several items as the same appear on the tax list, and the amount paid in road orders and supervisors' receipts, each in a separate column, and the total amount for which the order or receipt was given in another column, and the treasurer shall keep his account of money received for and on account of taxes levied and assessed for any one year separate and distinct from those levied or assessed for any other year, and all entries in said cash book of moneys received for taxes, shall be in the numerical order of the receipts issued therefor.

**§ 1233. Receipts for fines. Office hours. Custodian of warrants.** Whenever the treasurer receives any money on account of fines or any other account, except taxes charged on the duplicate, he shall make out duplicate receipts, one of which receipts he shall deliver to the person paying, and the other he shall deposit with the county auditor at the close of business each day, in order that the treasurer may be charged with the amount thereof. The treasurer shall enter the same in his cash book, as in case of moneys received for taxes, but in a separate place, and with a separate and distinct series of numbers of receipts issued therefor. The county treasurer shall keep his office open from nine o'clock A. M. to four o'clock P. M. of each business day, and shall, within seven days after the close of business on each day, transmit to the county auditor the duplicate receipts of all moneys received and canceled by him during the day, all warrants paid, all receipts taken and received for money paid out, except as hereinbefore provided. The auditor shall be custodian of such receipts, warrants and vouchers, and shall keep the same in some safe place to be provided by the county commissioners. He shall receipt to the treasurer for each and every receipt, warrant and

voucher delivered to him, stating in said receipt the number and amount of each receipt, warrant and voucher. The county auditor shall forthwith compare said tax receipts and all other receipts, warrants and vouchers with the books of the treasurer; and if, upon said comparison, he finds said receipts are in all respects correct, and are given for the actual amount due and paid into the treasury or for the amount actually paid out, as the case may be, that the warrants were actually paid, and that all such items and amounts have been properly entered upon the treasurer's books, he shall so certify on the back of said receipts; but if any errors or omissions are found, he shall report the same to the county commissioners without delay, unless the error is corrected in his presence.

**§ 1234. Apportionment of taxes, penalty and interest.** The treasurer of each county shall, on the first Monday of each month, apportion the consolidated tax of each county, collected during the preceding month, among the several funds to which it belongs, according to the number of mills levied for each fund contained in such consolidated tax, and shall also apportion all penalty and interest to the several funds on which the same accrued, and having entered the amount of tax for each fund, including other taxes collected during the preceding month, upon his cash account, he shall report the amount of each distinct tax to the county auditor, who shall charge him with the same.

§ 51, c. 28, Pol. C.

**§ 1235. Auditor to keep duplicate treasurer's cash book.** The county auditor is required to keep a duplicate of the treasurer's cash book, and to enter therein all duplicate receipts by him received from the treasurer, in the same manner and form as the treasurer is required to enter the same.

§ 52, c. 28, Pol. C.

**§ 1236. Erroneous assessment, how and by whom corrected.** If on the assessment roll or tax list there is any error in the name of the person assessed or taxed, the name may be changed and the tax collected from the person intended, if he is taxable and can be identified by the assessor or treasurer; and when the treasurer, after the tax list is committed to him, shall ascertain that any land or other property is omitted, he shall report the fact to the county auditor, who, upon being satisfied thereof, shall enter the same upon his assessment roll and assess the value, and the treasurer shall enter it upon the tax list and collect the tax as in other cases.

§ 53, c. 28, Pol. C.  
am'd.

**§ 1237. Demand. Distress and sale. Removal from county.** No demand of taxes shall be necessary; but it shall be the duty of every person subject to taxation under this law to attend at the treasurer's office at the county seat and pay his taxes, and if any person so fails to attend and pay his taxes, until after the first of October, after the same shall have become due, the treasurer is directed and required to collect the same by distress and sale; provided, that in case any person, having only personal property assessed, and upon which the taxes are unpaid, shall in the opinion of the treasurer, be about to move out of the county, it shall be the duty of the treasurer to collect such taxes at any time after the tax duplicate has been placed in his hands; provided, however, that in case any person owing taxes removes from any county in this state to any other county in this state, the county treasurer shall forward such claim to the treasurer of the county to which such person has removed, and such taxes shall be collected by the county treasurer of the latter

place, as other taxes and returned to the proper county, less legal charges.

ARTICLE 7.—DELINQUENCY, PENALTY AND LIEN OF TAXES.

**§ 1238. Taxes delinquent, when. Penalty. Interest.** All unpaid taxes, both personal and real, shall become due on the first day of December of the year in which said taxes are assessed and levied and all taxes shall become delinquent on the first day of June after the same become due. A discount shall be allowed on all taxes paid as follows: One per cent on all sums paid within fifteen days after the same shall have become due, and one-half of one per cent on all sums paid within thirty days after the same shall have become due. Thirty days after each of said taxes shall become delinquent there shall be added thereto a penalty of three per cent and the taxes shall thereafter draw interest at the rate of one per cent per month until paid or discharged by distress or sale.

**§ 1239. Taxes a perpetual lien. Vendor and vendee.** Taxes upon real property are hereby made a perpetual lien thereupon against all persons and bodies corporate, except the United States and the state, and taxes due from any person upon personal property shall be a lien upon any real property owned by such person, or to which he may acquire a title, or upon any personal property owned by him at the time the tax becomes due, or which may be subsequently acquired by him, and the title to any of which personal property so owned or subsequently acquired remains in him at the time of the distraint. All taxes shall, as between vendor and purchaser, become a lien upon real estate on and after the first day of December in each year.

§ 56, c. 28, Pol.C.  
am'd.

ARTICLE 8.—COLLECTION BY DISTRESS.

**§ 1240. Sale by distress. Notice. Proceeds.** When the treasurer distrains personal property, he may keep it at the expense of the owner, and he shall give notice of the time of the sale within five days after the day of the taking, in the same manner that constables are required to give notice of the time of sale of personal property on execution; but he may adjourn the sale from time to time for a period not to exceed three days, and shall adjourn once at least when there are no bidders; and in case of an adjournment he shall put up a notice thereof at the place of sale. Any surplus remaining above the taxes, charges for keeping, fees for sale, fees for levying on the property and mileage, to be the same as allowed by law to sheriffs for levying an execution on personal property, shall be returned to the owner and the treasurer shall render an account in writing of the sale and charges with his regular report to the board of county commissioners.

§ 57, c. 28, Pol.C.  
am'd.

**§ 1241. Treasurer may summon posse. Penalty for refusal.** If the treasurer is resisted or impeded in the execution of his office he may require any suitable person or persons to aid him therein, and if any such person refuses to aid, he shall forfeit a sum not exceeding ten dollars, to be recovered by civil action in the name and for the use of the county, and the person or persons resisting shall be liable, as in the case of resisting the sheriff in the execution of civil process.

§ 58, c. 28, Pol.C.

**§ 1242. Payment of taxes continued.** The treasurer shall continue to receive payment of all taxes upon the above terms until collected by distress and sale.

§ 59, c. 28, Pol.C.  
am'd.

60, c. 28, Pol.C.  
1. c. 120, 1881.

**§ 1243. Treasurer released from collection, when.** If the county treasurer is unable, for want of goods or chattels whereon to levy, to collect by distress or otherwise, the taxes or any part thereof, which may have been assessed upon the personal property of any person or corporation, or any executor or administrator, guardian, receiver, assignee, agent or factor, such treasurer shall file with the county auditor, on the first Monday of August following, a list of such taxes, with an affidavit of himself or his deputy intrusted with the collection of said taxes, stating that he had made diligent search and inquiry for goods and chattels wherewith to make such taxes, and was unable to make or collect the same, and such other facts as he shall deem of importance to the county commissioners. The county auditor shall present said lists to the county commissioners at their first meeting, then or thereafter in session, and the said board shall examine such taxes so returnable, and if they are satisfied, such taxes or any part thereof cannot be collected, then they shall instruct the county treasurer to place the same on a list of taxes that cannot be collected, in a book provided for that purpose, and said treasurer shall thereupon be released from further liability for a failure to collect such tax or taxes; but if said board are satisfied that said taxes or any part thereof can be collected, they shall order the county treasurer to proceed again to collect the same, and it shall be his duty to proceed again to collect said taxes in the manner provided by law.

§ 2. c. 120, 1881.

**§ 1244. Treasurer liable for delinquent taxes, when.** If any county treasurer shall neglect or refuse to collect any tax assessed on personal property when the same is collectible, or to file the delinquent list and affidavit as herein set forth and provided, he shall be held liable in his next settlement with the county commissioners for the whole amount of such taxes uncollected, and the same shall be deducted from his salary or fees and applied to the several funds for which they were levied.

§ 3. c. 120, 1881.  
am'd.

**§ 1245. Fees and mileage for demand, levy and sale.** County treasurers shall be allowed for making demand for such taxes where no levy is made on property, ten cents per mile for each mile necessarily and actually traveled, and when levy is made, the fees allowed by law to sheriffs for any levy and sale of property on execution, which fees and mileage shall be paid to the treasurer of that county by the person, corporation, executor, administrator, guardian, receiver, assignee, agent or factor from whom such tax or taxes are due.

**§ 1246. Clerk of township, village or city to transmit rate of taxation, when.** The town clerk of any organized township, clerk of any town or city, or secretary of any board of education, the clerk of any school district or school township or any other officer who is now or may hereafter be by law authorized to perform the duties herein specified, shall, on or before the first Monday in September, annually transmit to the county auditor the rate of taxation levied in such township, town, city, independent school district or school township for that year; and it shall be the duty of the county auditor to enter and levy the same on the tax list.

**§ 1247. Treasurer to pay municipal corporation taxes, when.** The county treasurer of the county shall pay over to the treasurer of any municipal corporation, organized township, school district or any other body politic, on the order of the proper officers at any time, all moneys received by him arising from taxes levied and col-

lected belonging to such municipal corporation, organized township, school district or any other body politic, and immediately after his quarterly settlement in each year, pay over all moneys and take triplicate receipts therefor, and file one with the clerk of the town, city, township, school district or other body politic, and one with the county auditor, and such moneys as said treasurer may receive after that time for delinquent taxes belonging to such township or other corporation, he shall pay over to the treasurer thereof, on demand or the order of the proper officers, and he shall take duplicate receipts of the treasurer of said township or corporation for said moneys, one of which he shall retain and one of which he shall file with the county auditor, and for a failure to pay over money held by him to the proper authority when demanded, or a failure to account for money received by him as required by law, he shall be deemed guilty of felony and, upon conviction, shall be punished by confinement in the penitentiary not less than one year nor more than three years.

§ 1248. **County responsible for state taxes.** Each county is responsible to the state for the full amount of tax levied for state purposes, excepting such amounts as are certified to be unavailable, double or erroneous assessments as hereinafter provided.

§ 1249. **County to pay state if treasurer defaults. Recourse.** If any county treasurer proves to be a defaulter to any amount to state revenue, such amount shall be made up to the state within the next three coming years by additional levies in such manner in annual amounts as the board of commissioners may direct. In such cases the county can have recourse to the official bond of the treasurer for indemnity.

§ 1250. **Treasurer's reports, when.** The treasurer of each county shall, on or before the fifth day of April, July, October and January in each year, prepare and file with the county auditor a sworn statement of the amount of money in his hands on the last day of the preceding quarter, belonging to each and every fund with which he is by law required to keep account.

§ 1251. **Settlement with county treasurer, when made.** At the regular meetings in January and July of each year the board of county commissioners shall make a full and complete settlement with the county treasurer, and they shall make and certify to the state treasurer all credits to the county treasurer for double or erroneous assessments and unavailable taxes, also all dues for state revenue, interest or delinquent taxes, sales of lands and other dues, if any, also the amounts collected for these several items and revenues still delinquent each year by itself. Said reports shall be forwarded by mail.

§ 1252. **Treasurer pays state, when.** The treasurer of each county shall, on or before the fifteenth day of April, July, October and January, prepare a sworn statement of the amount of money in his hands for the quarter ending the last day of the preceding month belonging to the state treasury, and forward the same by mail to the treasurer of the state, and he shall each year pay into the state treasury on or before the fifteenth day of July all the money due the state remaining in his hands on the first day of July, and on or before the fifteenth day of January all the money due the state remaining in his hands on the first day of January; he shall also, at any time when directed by the state treasurer, forthwith pay into the state treasury all the money due the state and remaining in his hands. In case the

treasurer of any county shall fail to prepare and forward the statement required in this section, he shall forfeit and pay for each and every failure the sum of five hundred dollars, to be recovered in an action brought by the attorney general in the name of the state against him and his bondsmen, in any court of record.

**§ 1253. State treasurer transmits county statement to auditor, when.** The state treasurer shall make and transmit to each county auditor on the fifteenth day of June of each year a statement of the county treasurer's account with the state treasurer, which shall be submitted by said auditor to the board of commissioners at their next meeting, and if they find the same to be incorrect in any particular, they shall forthwith certify the facts in relation to the same to the state treasurer.

**§ 1254. County treasurer's final settlement, how made.** When the county treasurer goes out of office, he shall make a full and complete settlement with the board of commissioners, and deliver up all books, papers, moneys and all other property pertaining to the office to his successor, taking his receipt therefor. The board of commissioners shall make a statement so far as state dues are concerned to the state treasurer, showing all charges against the treasurer during his term of office, and all credits made, the delinquent taxes and other unfinished business charged over to his successor, showing to what year and to what account the amount so paid over belongs. They shall also see that the books of the treasurer are correctly balanced before passing into the possession and control of the treasurer elect. They shall witness and attest the actual transfer and delivery of accounts, books, vouchers and all funds by any outgoing treasurer to his successor in office, whether the treasurer is succeeded by himself or another; and they shall cause to be entered of record their full compliance with the requirements of this section.

#### ARTICLE 9.—TAX SALE.

**§ 1255. Sale of real property. Notice. Manner. Costs and fees.** The treasurer shall give notice of the sale of real property by publication thereof once a week for three consecutive weeks preceding the sale, in a newspaper in his county, to be designated by the board of county commissioners or a majority thereof, if there is one, and if there is no paper published in his county, shall give notice by a written or printed notice posted on the door of the court house or building in which courts are commonly held or the usual place of meeting of the county commissioners for three weeks previous to the sale. In counties having daily papers the tax list shall be published in one issue of the daily edition and in two issues of the weekly edition of the same paper, so selected by the board. Such notice shall contain a notification that all lands on which taxes are a lien, naming the year for which taxes are due and remaining unpaid will be sold, and time and place of sale, and said notice must contain a list of the lands to be sold, name of person to whom said property is assessed and the amount of taxes due. The treasurer shall charge and collect, in addition to the taxes, interest and penalty, the sum of twenty cents on each tract of real property and ten cents on each town lot advertised for sale, which sum shall be paid into the county treasury and the county shall allow and pay the costs of publication, on comple-

§ 61, c. 28, Pol.C.  
am'd.



tion of the same, at the rate above provided; but in no case shall the county be liable for more than the amount charged to the delinquent lands and lots for advertising.

§ 1256. **Real estate, when sold for taxes.** On the first Monday of October of each year, between the hours of nine o'clock A. M. and four o'clock P. M. the treasurer is directed to offer at public sale for cash, at the treasurer's office where, by law, the taxes are made payable, all lands, town lots, or other real property which shall be liable for tax of any description for the preceding year or years and which shall remain due and unpaid, and he may adjourn the sale from day to day, until all the lands, lots, or other real property have been offered, and no taxable property shall be exempt from levy and sale for taxes. § 62, c.28, Pol.C. am'd.

§ 1257. **Highest bidder, who. Sale of homestead.** The person who offers to pay the amount due on any parcel of land for the smallest portion of the same is to be considered the highest bidder, and when such a portion constitutes one-half or more of the parcel, it is to be taken from the east side thereof, dividing it by a line running north and south, except that town lots are to be divided in such case lengthwise, by a parallel with the proper lines of the lots. If the portion taken is less than one-half of the parcel, it is to be taken from the southeast corner in a square form, as nearly as the form of the land will conveniently permit. The preceding provisions of this section are subject to the following qualifications: The homestead shall not be sold for any taxes due from the owner thereof, until all other lands, town lots or other real property, shall have been first sold, and to that end the quantity of the land offered for sale may be obtained by drawing the division line in any direction so as to avoid the homestead; and when the homestead constitutes a part of the tract or parcel sold and is not yet ascertained, the court may, in the action hereafter authorized, at the suggestion of either party, cause proceedings to be had similar to that required in relation to mechanic's liens, for the ascertainment of the homestead; and in all other cases of such sales, it may take the requisite order and proceedings to ascertain the land sold, and to set the same apart from the homestead. § 63, c.28, Pol.C.

§ 1258. **Private sale, when. Readvertisement. Civil action.** Should any person so bidding fail to pay the amount due, the treasurer may again offer the land for sale if the sale has not closed; and, if it has closed, he may sell the same at private sale, or he may again advertise it specially and by description, by one written or printed notice posted for two weeks on the door of the court house, or place where courts are usually held, after which it may be sold at public sale, or the treasurer may recover the amount by civil action brought in the name of the county in which the sale was held. § 64 c.28, Pol.C. am'd.

§ 1259. **Report of sale and evidence thereof.** On or before the first Monday of November following the sale of real property the treasurer is required to file in the office of the county auditor of his county a return of his sale of land, town lots, mines and mining claims, retaining a copy in his office, showing the lands sold, the name of the purchasers and the sums paid by them, and also a copy of the notice of sale, with a certificate of the advertisement, verified by an affidavit, and such certificate shall be evidence of the regularity of the proceeding. § 65, c.28, Pol.C. am'd.

§ 66, c.28, Pol.C. am'd.

§ 1260. **Description of real estate.** The description of real estate in such returns shall be entered in the same numerical order as required in the tax list.

§ 67, c.28, Pol.C. am'd.

§ 1261. **Tax certificate, by whom executed. Effect and form.** The purchaser of any tract of land sold by the county treasurer for taxes will be entitled to a certificate in writing, describing the lands so purchased, the sum paid and the time when the purchaser will be entitled to a deed, which certificate shall be assignable, and said assignment must be acknowledged before some officer having power to take acknowledgment of deeds. Such certificate shall be signed by the treasurer in his official capacity, and shall be presumptive evidence of the regularity of all prior proceedings. And the treasurer shall make out a tax receipt and duplicate for the taxes on the real estate mentioned in such certificate, the same as in any other case, and shall write thereon, "sold for taxes at public sale." The purchaser acquires the lien of the tax on the land, and if he subsequently pays any taxes levied on the same, he shall have the same lien for them, and may add them to the amount paid by him in the purchase; but no such subsequent tax shall be paid by the purchaser until fifteen days before such tax becomes delinquent. Such certificate shall be substantially in the following form:

State of North Dakota, }  
.....County. } ss.

I, ....., treasurer of the county of ....., in the state of North Dakota, do hereby certify that the following described real estate in said county and state, to-wit: (Describing the same) was, on the ..... day of ....., 18..., duly sold by me in the manner provided by law for the delinquent taxes of the year 18... thereon, amounting to ..... dollars, including interest and penalty thereon and the costs allowed by law to ..... for the sum of ..... dollars, he being the highest bidder for the same.

And I further certify that unless redemption is made of said real estate, in the manner provided by law, the said ..... or his assigns will be entitled to a deed therefor, on and after the ..... day of ....., A. D. 18..., on surrender of this certificate.

In witness whereof I have hereunto set my hand this .... day of ....., A. D. 18...

....., Treasurer.

§ 68, c.28, Pol.C. am'd.

§ 1262. **Fees for tax certificate.** The treasurer is authorized to demand twenty-five cents for each certificate made by him on such sale, containing a description of more than a single tract of land as advertised, and the treasurer is authorized to demand the sum of twenty-five cents for each certificate describing a single tract of land. But any number of parcels of land, bought by any one person, may be included in one certificate, as may be desired by the purchaser; and whenever the treasurer makes a certificate to any land sold for taxes, he shall enter an account thereof in the sale book, opposite the description of the land conveyed.

§ 69, c.28, Pol.C. am'd.

§ 1263. **Private sale of unsold land. Certificate.** After the sale shall have closed and after the treasurer has made his return thereof to the county auditor as provided in section 1259, if any real estate remains unsold for want of bidders therefor, the county treasurer is authorized and required to sell the same at private sale at his office, to any person who will pay the amount of the taxes, penalty

and costs thereon for the same, and to deliver to said purchaser a certificate as provided in section 1261, and to make out duplicate receipts for the taxes on such real estate, on which he shall write, "sold for taxes at private sale," and deliver one to the purchaser and the other to the county auditor as hereinbefore provided, with the additional statement inserted in the certificate that such lands have been offered at public sale for taxes, but not sold for want of bidders; and the treasurer is further authorized and required to sell as aforesaid all real estate in his county on which taxes remain unpaid and delinquent for any previous year or years.

ARTICLE 10. — REDEMPTION.

§ 1264. **Redemption, period of, how made. Interest.** The owner or occupant of any land sold for taxes, or any other person may redeem the same at any time within two years after the day of such sale or at any time before the execution of a deed of conveyance therefor by the county treasurer, by paying the county treasurer, for the use of the purchaser, his heirs or assigns, the sum mentioned in this certificate, and interest thereon at the rate of fifteen per cent per annum from the date of purchase, together with all other taxes paid subsequent to said sale, and interest thereon at the same rate from the date of such payment; and the treasurer shall enter a memorandum of the redemption in the list of sales, and give a receipt therefor to the person redeeming the same, and file a duplicate of the same with the county auditor, as in other cases, and hold the money paid subject to the order of the purchaser, his agent or attorney, who shall be immediately notified of such redemption by the treasurer, if his residence is known; provided, that infants, idiots and insane persons may redeem any lands belonging to them, sold for taxes, within one year after the expiration of such disability. And provided, further, that when any person shall redeem any lands or lots sold for taxes and shall not demand a redemption receipt for the money paid the return of the certificate of purchase for cancellation shall operate as a release of all the claim to the tract or lot described therein, under or by virtue of the purchase, and the county treasurer, upon receiving such certificate of purchase, shall mark on the tax sale record opposite the description of the property for which said certificate of purchase had been issued, "sale canceled by return of certificate." The fee for making said entry shall be ten cents for each description.

§70, c.28, Pol.C. am'd.

§ 1265. **Redemption of undivided land, how made.** Any person claiming an undivided part of any land sold for taxes may redeem the same on paying such proportion of the purchase money, interest, principal and subsequent taxes as he shall claim of the land sold.

§71, c.28, Pol.C.

§ 1266. **Partial redemption, how made.** In every case of partial redemption, pursuant to the last section, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption and the county treasurer shall convey accordingly.

§72, c.28, Pol.C.

ARTICLE 11. — DEED AND EFFECT THEREOF.

§ 1267. **Tax deed, when and by whom made.** If no person shall redeem such lands within two years, at any time after the expiration thereof, and on production of the certificate of purchase the treasurer of the county in which the sale of such lands took place,

§73, c.28, Pol.C.

shall execute to the purchaser, his heirs or assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the grantee an absolute estate in fee simple in such land, subject, however, to all the claims which the state may have thereon for taxes or other liens or incumbrances.

§ 74, c.28, Pol.C. am'd.

§ 1268. Treasurer to execute deed. Form of tax deed.

Such deeds shall be executed by the county treasurer under his hand, and the execution thereof shall be attested by the county auditor with the county seal, and such deed shall be conclusive evidence of the truth of all the facts therein recited, and of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed, and such deed shall be substantially in the following or other equivalent form:

Whereas, A. B. did, on the ..... day of ..... 18 .... produce to the undersigned C. D., treasurer of the county of ....., in the state of North Dakota, a certificate of purchase in writing bearing date the ..... day of ..... 18 .... signed by E. F., who at the last mentioned date was treasurer of said county, from which it appears that ..... did on the ..... day of ..... 18 .... purchase at public auction at the county treasurer's office in said county, the tract, parcel or lot of land lastly in this indenture described, and which lot was sold to ..... for the sum of ..... dollars, being the amount due on the following tract or lot of land returned delinquent for the nonpayment of taxes, costs and charges for the year (or years) 18 .... to-wit: (Here insert the land offered for sale.) And it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the land therein described having now expired, and the same not having been redeemed as provided by law, and the said A. B. having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, charges and costs as above specified, and it appearing that said lands were legally liable for taxation, and had been duly assessed and properly charged on the tax book or duplicate for the year (or years) 18 .... and that said lands had been legally advertised for sale for taxes, and were sold on the ..... day of ..... 18 ....

Now, therefore, this indenture made this.....of..... 18....between the state of North Dakota by C. D., as treasurer of said county, of the first part, and the said A. B. of the second part;

Witnesseth, That the said party of the first part for and in consideration of the premises and the sum of one dollar in hand paid, has granted, bargained and sold, and by these presents does grant, bargain, sell and convey unto the said party of the second part ..... heirs, and assigns forever, the tract or parcel of land mentioned in said certificate, and described as follows, to-wit: (Describe the land), to have and to hold said mentioned tract or parcel of land with the appurtenances thereto belonging to the said party of the second part ..... heirs and assigns forever, in as full and ample manner as the said treasurer of said county is empowered by law to sell the same.

In testimony whereof, the said C. D., as treasurer of said county of ..... has hereunto set his hand and seal on the day and year aforesaid.

Attest: .....  
(Seal.)

Which deed shall be acknowledged by said treasurer before some one authorized by law to take acknowledgements of deeds, for which said deed the treasurer shall be entitled to charge a fee of fifty cents, to be paid by the grantee in such deed.

**§ 1269. Limitation of action to set aside tax deed. Conditions precedent.** No action shall be commenced by the former owner or owners of land, or by any person claiming under him or them, to recover possession of land which has been sold and conveyed by deed for nonpayment of taxes, or to avoid such deed, unless such action shall be commenced within three years after the recording of such deed; and not until all taxes, interest and penalty, costs and expenses shall be paid or deposited in court by the parties commencing such action. § 75, c.28, Pol.C.

**§ 1270. Irregularities not to invalidate deed in certain cases.** The sale of lands, town or city lots, or any other real property, for taxes, shall not be invalid on account of such real property having been listed or charged on the duplicate in any other name than that of the rightful owner; nor shall any such sale be invalid nor the conveyance of the real property so sold be voidable by reason of the neglect or failure of the treasurer, or any other officer to collect the tax for which it was sold by distraint and sale of personal property. § 76, c.28, Pol.C.

**§ 1271. Tax certificates canceled, when. Lost certificates and procedure.** When deeds are delivered for real property sold for taxes the certificate therefor must be canceled and filed by the county auditor; and in case of loss of any certificate, on being satisfied thereof by due proof, and bond being given to the state in a sum equal to the value of the property conveyed, as in cases of lost notes or other commercial paper, the county treasurer may execute and deliver the proper conveyance, and file such proof and bond with the county auditor. § 77, c.28, Pol.C.

#### ARTICLE 12. — SALES WRONGFULLY MADE.

**§ 1272. County to refund, when.** When by mistake or wrongful act of the treasurer or other officer, land has been sold on which no tax was due at the time, the county is to save the purchaser harmless by paying him the amount of the principal, or the purchaser may recover the same directly from such officer and his sureties. In case any county shall have heretofore paid or shall hereafter pay to the state or any town, city, township or other corporation, moneys collected by mistake or wrongful act of the treasurer, or any other officer, the same shall be refunded to the treasury of the county from which the same was received, upon demand of the treasurer of such county. § 78, c.28, Pol.C. am'd.

**§ 1273. Action to restrain or avoid tax. Judgment for taxes justly due.** Whenever any action or proceeding shall be commenced and maintained before any court or judge to prevent or restrain the collection of any tax or part thereof, or any particular act of an officer in the collection thereof, or to recover any such tax before paid, or to recover the possession or title of any property, real or personal, sold for taxes, or to invalidate or cancel any deed or grant thereof for taxes, or to restrain, prevent, recover or delay any payment of taxes, the true and just amount of taxes due upon such property, § 79, c.28, Pol.C.

or by such person, must be ascertained and judgment rendered and given therefor against the taxpayer, and if the tax is delinquent, execution must be issued forthwith for the same.

ARTICLE 13.—COLLECTION OF TAXES BY ACTION.

§ 1274. **Action to collect taxes, when.** Sixty days after the annual tax sale has closed, if any real property remains unsold for want of bidders therefor, on which any tax remains unpaid, the county commissioners are hereby authorized and empowered, at their option, in lieu of the private sale provided by section 1258, to authorize and empower the county treasurer to institute a civil action in the district court of his county or subdivision, in his own name as treasurer of his county, for the collection of such taxes from the party or parties liable therefor against the real property chargeable therewith. In such action the treasurer shall include taxes remaining unpaid and delinquent for any previous year or years and all delinquent taxes for whatever year, against whomsoever assessed, which are a lien upon the real property sought to be charged in the action, and can properly be united in the same action.

§ 1275. **Action by treasurer to recover taxes, who parties.** When the real property appears assessed against any owner, or the title of a subsequent owner of such property appears of record, the treasurer may bring an action against either or both at his option, and in cases where the property appears assessed to an unknown owner and the title of no subsequent owner appears of record, he may bring an action against an unknown owner, and all persons having an interest in the property shall be presumed to have notice of such action, and the proceedings therein.

§ 1276. **Commenced by summons. Service of.** This action shall be begun by service of a summons in like manner as in other civil actions; and in the case of a nonresident and of unknown defendants, service of the summons shall be made by publication upon the same proceedings and in like manner as is provided in the code of civil procedure for nonresidents and unknown defendants having or claiming an interest in or a lien upon real property.

§ 1277. **Costs as in civil actions.** In every judgment recovered under this chapter the same costs shall be taxable as in ordinary civil actions: provided, however, that no costs shall be demanded of or payable by the treasurer of the county in advance, but shall be payable when collected by the treasurer.

§ 1278. **Complaint, form of.** In this action brought by the treasurer the complaint may be in the following form, and shall be legally sufficient:

.....Court.  
.....Plaintiff, }  
vs. }  
.....Defendant. }

The plaintiff complains and alleges that the defendant is indebted to the plaintiff in the sum of ..... dollars, (naming the total amount due the state, county and other funds) for taxes, with ..... per cent penalty added thereto for the nonpayment thereof, and interest thereon at the rate of ..... per cent per month, from (date of delinquency) and ..... cents costs of advertising, which said taxes were duly assessed and levied upon the (real or personal) prop-

erty of the defendant, to-wit: (Describe the property as assessed) for the fiscal year (naming the year) (for taxes for a previous year an additional paragraph may be added in similar form). That the taxes aforesaid, with penalty, interest and costs are a lien upon the real property before described.

Wherefore, plaintiff prays judgment against said defendant for the sum of ..... dollars, with penalty and interest as aforesaid, and attorney's fees of ..... dollars and costs of suit, and that the lien of said taxes may be enforced against said real property, and the same be condemned to be sold to satisfy plaintiff's judgment.

.....State's Attorney.

In case of an unknown owner, or of personal tax, chargeable as a lien on real property, or where the defendant is sued in a representative capacity, or in other cases, presenting peculiar circumstances, the complaint shall contain such additional allegations as such circumstances may require.

§ 1279. **Certificate prima facie evidence. Form.** On the trial of any action brought under this chapter, a certificate in the following form, signed by the treasurer and under the seal of the county, shall be prima facie evidence of the due assessment and levy of the tax, and that it is due and delinquent:

I do hereby certify that the following is a correct transcript of an entry on the duplicate tax list of ..... county, now in my hands for collection (name, description of real property, personalty, tax to different funds, total, remarks). That the above tax became delinquent on (date), has since been advertised for sale at a cost of ..... dollars and not sold for want of bidders, and remains unpaid.

.....Treasurer.

§ 1280. **Rules and practice governing.** These actions shall be governed by the rules and practice of the code of civil procedure, and judgment may be taken as in such code provided, either in term time or vacation. When issue is joined, the cause shall at once on request of the plaintiff be placed by the clerk on the calendar for trial without serving or filing a note of issue or notice of trial; and shall be given precedence in the district court next after criminal business. Such issue shall be triable by the court, subject to its power to send any or all of the issues to be tried to a jury, as provided in the code of civil procedure.

§ 1281. **Payment after suit commenced.** Upon the payment of any taxes after suit shall have been brought, or the payment or collection thereof after judgment, the treasurer shall pay therefrom the costs and attorney's fees, and make distribution of the balance as provided by law.

§ 1282. **Interest on judgments.** All judgments obtained under the provisions of this chapter shall bear interest at the rate of twelve per cent per annum until paid.

§ 1283. **Execution to enforce judgment. Proceedings. Redemption.** Upon the recovery of judgment in any case brought under this chapter, the same may be enforced by writ of execution in like manner as provided in the code of civil procedure in cases of judgment requiring the sale of property, and the proceeding throughout shall be the same as in such cases, except that in all cases arising under this chapter, execution shall be directed to the treasurer of the county in which the property to be sold is situated instead of the

sheriff. And the treasurer shall discharge the duties in and about the receipt of said execution, the advertisement and sale of the real property, directed to be sold thereunder, the conduct of the sale, the execution of the certificate of purchase, return of execution and report of sale, and any other duties now required of the sheriff in the sale of real property on execution, in the same manner as the same are required by law to be performed and discharged by the sheriff in the case of sales of real property by him, under writs of execution requiring the sale of real property, the proceedings of the treasurer in the premises to be reported to the court upon return of the execution, and to be subject to review and confirmation by the court, in like manner as a sheriff's sale of real property on execution. The premises sold by the treasurer shall be subject to redemption at any time within two years from the date of sale or at any time before the execution of a deed therefor, in like manner and upon the same terms and conditions as provided on ordinary sales of real property; provided, however, that during the period allowed for redemption and until redemption is made, the treasurer's certificate of purchase and all taxes paid by the purchaser subsequent thereto shall bear interest at the rate of fifteen per cent per annum, when the amount is less than five dollars, and twelve per cent when the amount is more than five dollars.

**§ 1284. Sale under execution. Highest bidder defined.**

In any sale upon writ of execution, under this chapter, the person who offers to pay the amount due on any parcel of land for the smallest portion of the same is considered the highest bidder, such portion to be chosen in like manner as provided for sales made by the treasurer under ordinary tax sales in section 1257.

**§ 1285. No bidders. County to purchase. Certificate. Taxes remitted, when. Reassessment.** If, in any instance, there should be no bidders willing to give the full amount of the judgment, penalty, interest and costs for any real property advertised and offered for sale, then it shall be the duty of the treasurer to bid off such real property in the name of the county of which he is treasurer, as the board of county commissioners thereof may authorize and direct, for the amount of the judgment, interest and costs accrued, and a certificate shall issue to such county in like manner as to any other purchaser; provided, however, that no costs or treasurer's commissions shall be payable by the county until redemption is made from such sale, or the time for redemption has expired; and provided, further, that all lands bid off by the treasurer for the county, shall, during the period of redemption, be subject to assessment and the levy of taxes the same as real property of private persons. But the taxes levied thereon during said period shall not be payable by the county, and if the said lands are not redeemed and a deed or deeds executed to the county therefor, said taxes shall be remitted and canceled of record in the treasurer's office by direction of the board of county commissioners.

**§ 1286. Tax deed upon execution, when issued.** At the expiration of the time allowed for redemption, if no redemption shall have been made, the treasurer must make the purchaser, or the party entitled thereto, a deed of the real property sold, which deed shall be in the usual form of deeds made by the sheriff after a sale under a writ of execution on a judgment directing the sale of real property, and shall have the same force and effect.



**§ 1287. Tax sale. Treasurer's fees.** For his services in attending and conducting any sale under judgment in the district court the treasurer shall be allowed the following fees:

For advertising and attending sale, and returning execution, fifty cents.

For executing certificate of purchase, fifty cents.

For executing deed, fifty cents.

The last item to be paid by the grantee in the deed, the other items to be taxed as accrued costs in making the sale.

**1288. Purchaser may pay subsequent taxes. Redemption therefrom.** The purchaser at any sale aforesaid, or his assignee, may pay any tax becoming delinquent before redemption from his purchase has been made, and thereafter no redemption can be made from him without paying the amount due on his certificate of purchase, with interest at fifteen per cent per annum from the date thereof, and such other liens held by him as are now required to be paid in making redemption from an ordinary execution sale and in addition thereto the amount of such subsequent tax paid by him, with interest from the date of the payment thereof at the rate of fifteen per cent per annum.

**§ 1289. Limitation of action to impeach execution deeds.** The same limitations shall apply to the bringing of an action to impeach any deed made under the provisions of this chapter, and the same prerequisites be enforced against the party bringing such an action as in the case of deeds executed by the treasurer on an ordinary tax sale made by him as provided in section 1269.

**§ 1290. Defenses to actions, what admissible.** In actions brought under the provisions of this chapter, it shall be no defense thereto that the land described has not been offered at the tax sale, or that a public tax sale for any year has not been held, or that there were irregularities in the conduct of the sale or advertisement thereof, or in the assessment or levy of the tax; nor shall any defense be admissible or any relief granted against the tax sought to be enforced, except such as may have been heretofore permitted under the existing revenue laws of the state.

#### ARTICLE 14. — PEDDLERS' TAX.

**§ 1291. State license for peddlers. Fee.** A tax of fifty dollars for state purposes shall be levied upon each peddler of watches, clocks, jewelry or patent medicines, and all other wares and merchandise not manufactured within the limits of this state, for a license to peddle throughout the state for one year. §80, c.28, Pol.C.  
am'd.

**§ 1292. License, from whom obtained.** Such license may be obtained from the county auditor of any county, upon paying the proper tax to the treasurer thereof and taking his receipt therefor. §81, c.28, Pol.C.

**§ 1293. Peddling without license. Penalty. Failure to exhibit license.** Any person so peddling without a license is guilty of a misdemeanor, and the person actually peddling is liable, whether he is the owner or not, and upon conviction thereof, shall forfeit and pay the sum of fifty dollars to the county treasurer where such conviction shall be had, to be recovered by civil action in the name of the county prosecuting for the same. All fines and penalties recovered under this section shall be applied to the common school fund of the county prosecuting for the same, and if any peddler refuses §82, c.28, Pol.C.  
am'd.

to exhibit his license to any person requiring a view of the same, he shall be presumed to have none, and if he produces a license upon the trial, such peddler shall pay all costs of prosecution.

ARTICLE 15.--PAYMENT OF STATE FUNDS BY COUNTY TREASURER.

§ 83, c.24, Pol.C.  
am'd.

**§ 1294. County treasurer settles with state, when. Funds, how transmitted.** The treasurers of the several counties shall pay into the state treasury all funds in their hands belonging thereto, on or before the fifteenth day of July, or on the fifteenth day of January in each year, and at such times as the state treasurer may require. State funds may be transmitted either by express, draft or post office order at the risk of the county treasurer, for which the county treasurer, shall be allowed his actual expenses. If by express it must be in coin, United States treasury notes or national bank currency.

§ 84, c.28, Pol.C.  
am'd.

**§ 1295. Penalty for failure to settle with state. Proceedings.** If any county treasurer shall willfully and negligently fail to settle with the state treasurer at the times and in the manner prescribed by law, he shall forfeit to the use of the state the sum of five hundred dollars, which sum may be recovered of him or his sureties on suit brought by the state treasurer in the name of the state, in any court in this state having jurisdiction; or, in case of failure of the state treasurer to bring such suit, then any citizen of the state may bring the same.

§ 85, c.28, Pol.C.  
am'd.

**§ 1296. List of taxable lands, how procured. Disposition of.** A list of lands becoming taxable for the first time in each county of the state shall be procured by the state auditor from the proper land officers, at the best prices for the state, and a list of the lands becoming so taxable in each of the several counties shall be forwarded by the auditor to the county auditor of each county on or before the fifteenth day of March of each year.

ARTICLE 16.—TREASURER'S WARRANT BOOK.

§ 86, c.28, Pol.C.  
am'd.

**§ 1297. Treasurer to keep warrant book. Form of.** Each county treasurer is required to keep a book called a "warrant book," in which he shall enter every county, road or other warrant or order paid by him, or received in payment of road or poll taxes, specifying the date at which the same was received and canceled, from whom received, the payee or person in whose favor it was drawn, its number and date, the amount for which it was originally drawn, the total amount of indorsements or payments made thereon, the principal sum for which it was received, the interest allowed and the total amount for which it was received; and the treasurer shall keep his account of road warrants, receipts and orders by him received for and on account of taxes, separate and distinct from the warrants paid by him in cash, and in another and separate place he shall enter an account of all indorsements made on road warrants or orders in part payment thereof. Such warrant book shall be in the following form, to wit:

TREASURER'S WARRANT BOOK ..... COUNTY, N. D.

Date.	From What Received.	Payee of Warrant.	Number of Warrant.	Date of—Amount—Warrant.	Indorsement.	Receipts.	Interest.

§ 1298. **Warrants, order of payment.** All warrants upon the state treasurer, the treasurer of any county, or any municipal corporation therein, shall be paid in the order of their presentation therefor. § 1. c. 50, Pol. C. am'd.

§ 1299. **Warrant register, by whom kept. Form of.** The state treasurer and the treasurer of every organized county, and every incorporated city or town therein, shall provide himself with and keep a warrant register, which register shall show in a column arranged for that purpose, the number and registered number, date and amount of each warrant presented, the particular fund upon which the same is drawn, the date of presentation, the name and address of the person in whose name the same is registered, and subsequent assignees, if furnished therewith; the date of payment when made, the amount of interest and the total amount paid thereon, with the date when notice to the person in whose name such warrant is registered, is mailed as hereinafter provided. § 2. c. 50, Pol. C. am'd.

§ 1300. **Duty of treasurer to register for payment.** It shall be the duty of every such treasurer to enter such warrant in his warrant register for payment in the order of presentation for registration, and upon every warrant so registered he shall indorse "registered for payment," with the date of such registration, and shall sign such indorsement; provided, that nothing in this chapter shall be construed to require the holder of any warrant to register the same, unless on presentation of the same to the treasurer for payment it shall be indorsed by him, "not paid for want of funds," and when so indorsed and registered it shall draw interest at seven per cent per annum from the date of such indorsement, but not otherwise. § 3. c. 50, Pol. C. am'd.

§ 1301. **Duty of treasurer to notify holders of warrants.** When the treasurer shall have received money belonging to any particular fund sufficient to pay the warrant against such fund, which by his warrant register appears to be next due and payable, such treasurer shall by mail immediately notify the person in whose name the same is registered, or his assignee, if notified of the assignment, and interest upon such warrant shall immediately cease. § 1. c. 140, 1881. am'd.

§ 1302. **Cash book and register to be footed and closed annually.** Every such treasurer shall daily, as moneys are received, foot the several columns of his cash book and of his register, and carry the amounts forward, and at the close of each year, in case the amount of money received by such treasurer is insufficient to pay the warrants so registered, he shall close the account for that year, in such register, and shall carry forward the excess. § 5. c. 50, Pol. C.

§ 1303. **Failure to enter and foot cash book, penalty.** Any such treasurer who shall fail regularly to enter upon his cash book the amounts so received, or who shall fail to keep his cash book footed from day to day, as required by this chapter, for the space of § 6. c. 50, Pol. C.

three days, shall forfeit, for each offense, the sum of one hundred dollars, to be recovered in a civil action on his official bond, by any person holding a warrant drawn on such treasurer.

§ 7, c. 50, Pol.C.

§ **1304. Cash book and register open to inspection.** The cash book and register of every such treasurer shall at all times be open to the inspection of any person in whose name any warrant is registered and unpaid.

§ 9, c. 50, Pol.C.

§ **1305. Failure to register warrants. Liability of treasurer.** Any such treasurer who shall fail to register any warrant in the order of its presentation therefor, or shall fail to pay the same in the order of its registration shall be liable on his official bond to each and every person, the payment of whose warrant is thereby postponed, in the sum of three hundred dollars to be recovered in a civil action.

#### ARTICLE 17. — MISCELLANEOUS PROVISIONS.

§ 87, c. 28, Pol.C.  
am'd.

§ **1306. False tax receipts, delivery of, a felony.** If any treasurer or his deputy or any other person shall knowingly or willfully make, issue and deliver any tax receipt or duplicate tax receipt, and therein designate any part or parts of the amount thereof as being paid in road warrants or orders, when the same was or were paid in cash, such treasurer or deputy treasurer or other person shall be deemed guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the penitentiary for a term not less than one year nor more than five years.

§ 88, c. 28, Pol.C.  
am'd.

§ **1307. Fraudulent tax receipts, delivery of, a felony.** If any treasurer or his deputy or any person shall knowingly or willfully make, issue and deliver any tax receipt or duplicate tax receipt, required by this chapter to be issued; by fraudulently making the tax receipt and its duplicate, or the paper purporting to be its duplicate differ from each other, with intent to defraud the state of North Dakota, or any county in said state, or any person whomsoever, such treasurer or deputy treasurer or other person shall be deemed guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not less than one year nor more than five years.

§ 89, c. 28, Pol.C.  
am'd.

§ **1308. Dereliction of duty, penalty for.** In the case of dereliction of duty on the part of any officer or person, required by law to perform any duty under the provisions of this chapter, in any county, such person shall thereby forfeit all pay and allowance that would otherwise be due him, and the county commissioners in such county, on receiving satisfactory evidence of such dereliction or failure to perform, as required by law, any duty enjoined by this chapter, shall refuse to pay such person or persons any sum whatever for such services.

§ 90, c. 28, Pol.C.  
am'd.

§ **1309. Treasurer to make duplicate receipts for all money.** When any money shall be paid to the county treasurer, or any account other than taxes, he shall make the proper duplicate receipts for the same as in case of the payment of taxes, and shall give one of said receipts to the person paying said money, and the other to the county auditor as directed in this chapter.

§ 91, c. 28, Pol.C.  
am'd.

§ **1310. Redemption of warrants. Duty of treasurer.** When the county treasurer shall redeem any county warrants, or shall receive any road warrants in payment of taxes, on which any interest

is due, he shall note on such warrants or orders the amount of interest paid by him thereon, and shall enter in his accounts the amount of such interest distinct from the principal.

**§ 1311. Treasurer to mark warrants "redeemed," when.** § 92, c.28, Pol.C. am'd.  
When the county treasurer of any county shall pay any warrants drawn on him by the board of county commissioners, or when he shall take or receive any warrant, or receipt in payment for any tax, he shall write on the face of each warrant, order or receipt, "redeemed," and the date of redemption, and shall sign his name thereto.

**§ 1312. Indorsements of road fund warrants.** § 93, c.28, Pol.C. am'd.  
When any person desiring to pay any taxes due and unpaid, shall present a warrant on the road fund of his road district, in payment for such taxes as it may be applied to, which shall exceed the amount that the treasurer is authorized to receive in such warrants in payment for such taxes, the treasurer shall indorse on the back of such warrant in part payment, the amount he is authorized by law to receive, and date the same; said treasurer shall take two receipts from the holder thereof for the amount so indorsed and paid, showing the date of the indorsement, a full description of such warrant, including the date thereof, to whom issued, the amount for which it was given, and all the indorsements, including registration, if registered; one of which receipts he shall, on the day received, file with the county auditor, and the other he shall retain as his voucher.

**§ 1313. Partial payment of taxes. How made.** § 94, c.28, Pol.C. am'd.  
When any person shall desire to pay only a portion of the tax charged on any real estate, such person shall pay a like proportion of the several taxes charged thereon, and no person will be permitted to pay one of said taxes without paying the others, except taxes, the collection of which shall have been enjoined by law.

**§ 1314. County auditor to sue treasurer, when.** § 95, c.28, Pol.C. am'd.  
If any county treasurer shall fail to make return, fail to make settlement, or fail to pay over all money with which he may stand charged, at the time and in the manner prescribed by law, it shall be the duty of the county auditor on receiving instructions for that purpose from the state auditor, or from the board of county commissioners of his county, to cause suit to be instituted against such treasurer and his sureties, or any of them.

**§ 1315. Suit against delinquent treasurer. Commissioners may remove, when.** § 96, c.28, Pol.C.  
Whenever suit shall have been commenced against any delinquent county treasurer, as aforesaid, the board of county commissioners of such county may, at their discretion, remove such treasurer from office and appoint some suitable person to fill the vacancy thereby created, as provided by law.

**§ 1316. Additional bond may be required, when.** § 97, c.28, Pol.C. am'd.  
The board of county commissioners of any county may require the treasurer to give an additional bond, whenever in the opinion of a majority of said commissioners the existing security shall have become insufficient; and the commissioners are also authorized and empowered to demand and receive from said county treasurer an additional bond, as required by law, with good and sufficient freehold security, in such sum as said commissioners or a majority of them may direct, whenever in their opinion, more money shall have passed or is about to pass into the hands of said treasurer than is or would be recovered by the penalty in the previous bond; but the giving of such additional bond

or bonds, as provided in this section, shall not invalidate any previous bond or bonds, nor discharge the sureties from any liability thereon.

§ 98, c.28, Pol.C.

**§ 1317. Failure to give additional bond, vacates office.**

If any county treasurer shall fail or refuse to give such additional bond, for and during the time of ten days from and after the day on which said commissioners shall have required said treasurer so to do, his office shall be considered vacant and another treasurer shall be appointed, agreeably to the provisions of law.

§ 99, c.28, Pol.C.  
am'd.

**§ 1318. Treasurer not to speculate in county warrants.**

**Penalty for.** No county treasurer shall either directly or indirectly contract for or purchase any warrant or warrants, or other evidence of indebtedness issued by the county of which he is treasurer, at any discount whatever upon the sum due on such warrant or warrants, or other evidence of indebtedness issued by the county of which he is treasurer, at any discount whatever upon the sum due on such warrant or warrants, or other evidence of indebtedness; and if any county treasurer shall so contract for or purchase any warrant or warrants, or other evidence of indebtedness, he shall not be allowed, in settlement, the amount of said warrant or warrants or other evidence of indebtedness, or any part thereof, and shall also forfeit the whole amount due on such warrants or evidence of indebtedness, to be recovered by civil action at the suit of the state of North Dakota, for the use of the county.

§ 100, c.28, Pol.C.  
am'd.

**§ 1319. Treasurer not credited with interest paid, when.**

The county treasurer, on his settlement with the county commissioners, shall not be credited with any sum for interest paid on any warrant or order, unless he shall, at the time of receiving the same, have noted thereon the amount of interest due thereon.

§ 101, c.28, Pol.C.

**§ 1320. Loaning county funds. Penalty for.** If any county treasurer shall loan any money belonging to his county, with or without interest, or shall use the same for his own purposes, he shall forfeit and pay for every such offense a sum not exceeding five hundred dollars nor less than one hundred dollars to be recovered in an action at law, at the suit of the state of North Dakota, for the use of the county.

§ 102, c.28, Pol.C.

**§ 1321. Treasurer to disburse funds quarterly.**

Each county treasurer shall, immediately after each quarterly settlement with the county commissioners of his county, on demand and presentation of the order of the auditor, issued by direction of the county commissioners therefor, pay over to the district or precinct treasurer, city treasurer or other proper officer, all moneys in the county treasury belonging to any district, precinct, town, city or school district; provided, that the moneys mentioned in this section may, by the direction of the proper local officers, remain in the county treasury on the order of the county auditor aforesaid.

§ 103, c.28, Pol.C.  
am'd.

**§ 1322. Auditor and treasurer jointly to make annual statement.**

The county auditor and county treasurer conjointly shall make out annually a detailed exhibit, showing the receipts and disbursements of the county for the fiscal year, also the assets and liabilities at the time of making out the same. Said exhibit shall show the amount of all orders on the treasury issued during the year next preceding, to whom allowed and on what account; and also the liabilities of the county stated in detail, and the assets of every kind, as near as may be; showing also the amount of funds in the treasury at the time of making said exhibit; on what account paid in and the kind of

funds. Said exhibit shall be made out annually up to and including the thirty-first day of December, and filed with the county auditor, and a copy posted up on the same day in the office of the treasurer.

**§ 1323. Misappropriation of public funds. Penalty.** If any county treasurer or other officer or person charged with the collection, receipt, safe-keeping, transfer or disbursement of public moneys or securities, or any part thereof belonging to the state or any county, precinct, district, city, town or school district shall convert to his own use, or to the use of any other person or persons, body corporate, association or party whatever, in any way whatever, such public moneys or securities or any portion thereof, or shall use the same or any portion thereof by way of investment in any kind of securities, stocks, loans, property, land and merchandise, or in any form whatever not authorized by law, or shall loan the same or any portion thereof with or without interest to any company or corporation, association or individual, or if any person shall advise, aid, or in any manner knowingly participate in such act, every such act shall be deemed and held in law to be an embezzlement of so much of said moneys or securities as aforesaid as shall be thus converted, used, invested, loaned, or paid out as aforesaid, and upon conviction thereof, such county treasurer or other officer or person, shall be punished by imprisonment in the penitentiary for a term of not less than one year, nor more than twenty-one years according to the magnitude of the embezzlement, and also pay a fine equal to double the amount of money or other property so embezzled as aforesaid; which fine shall operate as a judgment at law on all the estate of the party so convicted and sentenced, and shall be enforced by execution or other process for the use of the state, county, precinct, district, town, city or school district, whose moneys or securities have been so embezzled.

§ 104, c. 28, Pol. C.  
am'd.

**§ 1324. Extraordinary expenditures to be authorized by vote.** If the county commissioners deem any expenditure necessary, greater in amount than can be provided for by the annual tax, they shall require a vote of the county thereon either at a general election or one called especially for the purpose. In either case four weeks' notice of said election shall be given in the official newspaper of the county, and the notice shall specify the amount to be raised, and the precise purpose for which it is to be expended; and if a majority of the votes cast authorize the tax, the county commissioners shall authorize the same to be levied and collected in the same manner as the annual tax, and if possible, at the same time; provided, however, that no new assessment shall be made for any special tax.

§ 105, c. 28, Pol. C.  
am'd.

**§ 1325. Payment of taxes requisite to record deed, mortgage or transfer.** No deed, mortgage, deed of trust, or other incumbrance or transfer of real property shall be received, filed or recorded by the register of deeds until all delinquent taxes due upon the real estate in such instruments described shall have been paid, which payment shall be evidenced by the indorsement of the county treasurer to that effect on the instrument presented for filing or record.

§ 1. c. 113, 1-33.  
am'd.

**§ 1326. State board of equalization, meeting of for classification and values.** It shall be the duty of the state board of equalization, as by this chapter constituted, to hold a session on the third Monday in January of each year, for the purpose of classifying all live stock and fixing an approximate cash value on the same, in order to secure uniformity and equity in the assessment thereof, and it shall be the duty of said board to transmit to each county auditor

on or before the third Monday of February following, a sufficient number of printed slips to supply all assessors, containing said classification and values affixed, which shall be distributed by said county auditor to the various assessors of their respective counties at the same time the blanks are furnished, as provided in sections 1179 and 1180 for their guidance and direction in listing and assessing all live stock.

**§ 1327. Expenses of state board, how paid.** All expenses incurred by said board in the discharge of the duties imposed by the last section, shall be audited and paid by the state.

**§ 1328. Assessors to follow values fixed by state board. Penalty.** It shall be the duty of each and every assessor, in determining and fixing the valuation of live stock listed by him for taxation, to be guided by and follow substantially the values thereof, as fixed by the state board of equalization, and if any assessor shall willfully fail or refuse so to do, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished as provided in section 1330.

**§ 1329. Acceptance of unsworn list, forfeiture for.** If any person shall receive and accept the list of any person not made, sworn to or affirmed and perfected in the manner hereby prescribed, he shall for each list so received and accepted by him contrary to this chapter, forfeit the sum of twenty-five dollars, to be deducted from his compensation by the county commissioners, or to be collected by suit brought against his official bond.

**§ 1330. Assessed valuation not to be materially changed. Penalty.** If any board of county commissioners, when engaged in equalizing and correcting the assessment roll of its county, as provided in section 1213, shall materially change the aggregate assessed valuation of such county, or shall equalize such assessment by increasing the aggregate assessed valuation of one class of property, as classified in section 1215, and reducing that of another class, or shall materially change the valuation of live stock as fixed by the state board of equalization, such commissioners and each of them consenting and assenting thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period of not more than one year, and not less than ninety days, or by a fine not exceeding one thousand dollars, and not less than two hundred dollars, or by such fine and imprisonment, and shall be deposed from the office of county commissioner.

#### ARTICLE 18. — ASSESSMENT OF RAILROAD PROPERTY.

§ 1. c. 1335, 1364.

**§ 1331. Railroad property to be assessed by state board of equalization.** The state board of equalization shall, at its annual meeting in August in each year, assess at its actual value the franchise, roadway, roadbed, rails and rolling stock of all railroads operated in this state. To enable said board to make a correct valuation of such property, it shall have access to all reports, estimates and surveys of such lines of railroads as may be on file in the office of the commissioners of railroads, and shall have power to summon and compel the attendance of witnesses, and may examine such witnesses under oath in any matter relating to the value of such property. In estimating the value of each railroad, branches and side tracks thereof it shall be governed by the same rules as are provided for the govern-



ment of county and township assessors, in valuing other property in this state. It shall cause a record to be made of the estimated value placed upon each of the items set forth in this section which go to make the aggregate valuation of such assessments.

**§ 1332. Apportionment to counties according to mileage.** § 2, c. 135, 1890.

The board of equalization shall divide the valuation so found and determined of each continuous line by the number of miles of such line contained in the state, and the result shall be the valuation per mile for which said line shall be assessed. The value of each branch line shall be determined in the same manner, and such valuation per mile shall be apportioned to each county according to the number of miles of such line or branch line contained in such county.

**§ 1333. Mileage and valuation, how certified to various political subdivisions for taxation.** § 3, c. 135, 1890.

The state auditor shall at the time of certifying the equalized value of each organized county to the county auditor, also certify the number of miles of each main line of railroad, and branches and side tracks thereof contained in said county and the valuation per mile of such line or branch line as determined by the state board of equalization and the county auditor of such county shall apportion such valuation to the cities, towns, townships and districts through which such railroads run according to the number of miles contained in each, as a part of the valuation of such city, town, township and district for the purpose of taxation, and the same shall be taxed as personal property is taxed in each county.

**§ 1334. Taxation in unorganized counties.** § 4, c. 135, 1890.

The valuation so apportioned to unorganized counties in this state shall be taxed for state purposes only; and such tax shall be levied annually by the state auditor at the same rate as other property is taxed for state purposes, and the state auditor shall notify each railroad company so taxed of the amount of such tax, on or before the first day of December in each year, and such tax must be paid to the state treasurer at the same time and subject to the same penalty as is prescribed by law for the collection of personal property taxes in organized counties, and the state treasurer shall have the same powers, and it shall be his duty to collect such tax in the same manner as county treasurers are authorized by law to collect personal property taxes.

**§ 1335. When provisions of this article inoperative.** § 5, c. 135, 1890.

If at any time the legislative assembly shall provide by law for the payment of a per cent of gross earnings by railroads as authorized by section 176 of the constitution of this state, then and during the time such law shall be in force the provisions of this article shall be inoperative.

ARTICLE 19. — ASSESSMENT AND TAXATION IN UNORGANIZED COUNTIES.

**§ 1336. Taxes, how assessed and collected in unorganized counties.** § 1, c. 140, 1890.  
am'd.

Any property not exempt from taxation, which is situated or kept in any unorganized county in this state, shall be listed and assessed by an assessor to be appointed by the board of county commissioners of the organized county to which such unorganized county is attached for judicial purposes; and the taxes due and payable on property in such unorganized county, shall be paid to and collected by the treasurer of such unorganized county, but such property shall be assessed and taxed for state purposes only.

§ 2, c. 140, 1890.  
§ 1, c. 112, 1893.

**§ 1337. Equalization and levy.** The board of county commissioners of the county to which such unorganized county is attached for judicial purposes shall, at the time and place it equalizes and corrects the assessment roll of its county, equalize and correct the assessment roll of such unorganized county, and at the time and place it makes its tax levy for county purposes, levy a tax upon the assessed property of such unorganized county, for state purposes only, in the same manner and form that it makes its levy for state purposes in its own county, and when the tax list is completed, the board of county commissioners shall attach to such tax list its warrant under its hand and official seal, in general terms requiring the county treasurer of such organized county to collect the tax therein levied according to law, and it shall require an additional bond from such county treasurer in such amount as it may deem necessary for the faithful discharge of his duties in collecting such tax, and it shall audit and allow the necessary expenses of the assessor, auditor and treasurer for the assessment and collection of such taxes, which shall be paid upon its warrant out of the taxes so assessed and collected.

§ 3, c. 140, 1890.  
§ 2, c. 112, 1893.

**§ 1338. Tax lists, how kept.** The county auditor of the county to which such unorganized county is attached for judicial purposes shall prepare a tax list in duplicate, with the warrant of the county commissioners attached, and deliver the duplicate thereof to the county treasurer on or before the first day of November following the date of the levy for the current year, and such duplicate tax list shall be full and sufficient authority for the collection by the treasurer of all taxes therein contained. The original tax list shall be kept by such auditor as the property of such unorganized county.

§ 4, c. 140, 1890.

**§ 1339. County treasurer to collect taxes.** It shall be the duty of the county treasurer, upon receipt of the tax list aforesaid, to collect such tax in the same manner and form in which other taxes are collected, and he shall pay the warrants drawn by the county commissioners upon such tax for necessary expenses of assessing and collecting the same and remit the remainder of such tax to the state treasurer.

ARTICLE 20.—TAXATION OF BANKRUPT STOCKS.

§ 1, c. 141, 1890.  
§ 1, c. 111, 1893.

**§ 1340. Bankrupt stocks, etc., how assessed.** All itinerant, transient or other merchants, salesmen or other persons, and all merchants or salesmen of bankrupt stocks of goods or merchandise, or of stocks of goods or merchandise claimed to have been injured by fire or otherwise, who shall bring into this state any stock of goods at any time after the annual assessment is made and returned, shall be liable to taxation upon such stock of goods and merchandise, and the assessor of the township or city, in which such goods or merchandise are offered for sale, shall immediately assess such stock at the same rate at which other merchandise of the same character has been assessed and forthwith return his assessment roll thereof, if an assessor in an incorporated city, to the city auditor, and if not, then to the county auditor.

§ 2, c. 111, 1893.

**§ 1341. Proceedings by city council.** If such assessment roll is returned to the city auditor he shall immediately notify the mayor thereof, who shall thereupon call a meeting of the city council for the purpose of equalizing or correcting such assessment.

Such meeting shall be held not less than three nor more than ten days after the return of such assessment, and not less than twenty-four hours' notice of the time and place and purpose of such meeting shall be given to the owner of such stock, which notice must be in writing and may be served personally or by leaving a copy thereof with any person in charge of such stock or employed in selling the same. The city council shall at such meeting hear any complaint as to the assessment of such stock and equalize and assess the same, and may adjourn from day to day until the same is completed. And in the absence of a quorum such meeting may be adjourned from day to day by the city auditor and upon the completion of such equalization the city auditor shall immediately certify such equalized assessment roll to the county auditor, who shall thereupon add such assessment to the tax list for the current year, and extend the taxes for such year thereon, and on the duplicate thereof, or if such duplicate has been delivered to the county treasurer, shall certify the same to such treasurer, who shall thereupon immediately, upon the receipt of such duplicate or certificate, demand such taxes and collect the same by distraint and sale in default of payment thereof on demand.

**§ 1342. Assessment by township assessor.** If such assessment is made by a township assessor he shall return the same to the county auditor, who shall thereupon call a meeting of the board of county commissioners in the manner and within the time provided in the preceding section for calling a meeting of the city council, and thereupon the same proceedings shall be had by the board of county commissioners for the equalization of such assessment, and the same notice given of such equalization as provided in such section, and upon the equalization thereof the county auditor shall enter such assessment on the tax list as provided in said section, and the same proceedings shall be had for the collection of such tax as therein provided. § 3. c. 111, 1893.

ARTICLE 21. — COUNTY COMMISSIONERS TO LEVY TAXES IN CERTAIN CASES.

**§ 1343. Tax in incorporated towns and cities to be levied by the county commissioners, when.** Whenever any incorporated city, town or village having an existing liability or indebtedness and authorized to levy taxes for the payment of the indebtedness for which such city, town or village may be liable fails or refuses to elect proper officers for the government of such city, town or village, it shall be the duty of the board of county commissioners of the county in which such city, town or village is located, upon a proper showing by any person having a legal or subsisting claim against such city, town or village, that there are no legal officers in such city, town or village authorized to levy a tax for the payment of such indebtedness, to levy a tax in the same manner and for the same purposes that the board of directors, trustees or city council would be authorized to levy the same for the payment of such indebtedness; and any person having a claim against such municipality shall have the same right to enforce the levy of such tax by the board of county commissioners that he would have had to compel such levy by the proper authorities of such city, town or village, had they been properly elected and qualified. § 1. c. 143, 1890.

ARTICLE 22. — GOPHER TAX.

§ 1, c. 144, 1890. § 1344. **Tax of two mills may be levied for destruction of gophers.** The board of county commissioners of any county in this state may, at the time fixed by law for the levy and assessment of taxes, levy a tax of not exceeding two mills on the dollar of the assessed valuation, upon all real estate in such county, the proceeds of which shall be used solely for the purpose of promoting the destruction of gophers in such county.

§ 2, c. 144, 1890. § 1345. **Fund, how used.** The fund provided to be raised in accordance with the preceding section shall be denominated the "gopher destruction fund," and shall be kept separate and distinct by the county treasurer, and shall be expended by and under the direction and control of the board of county commissioners at such time, and in such manner, as is by such board deemed best to secure the abatement and extinction of the gopher pest.

ARTICLE 23. — COMPROMISE OF DELINQUENT TAXES.

§ 1, c. 118, 1889. § 1346. **Commissioners may compromise, when.** Whenever taxes remain unpaid on any real estate and the property shall have been offered for sale as required by law two successive years, and received no purchaser on account of the depreciation in the value of such property or otherwise, the board of county commissioners of the county in which such property is situated shall have the power to compromise with the owners thereof, by abating a portion of the delinquent taxes and penalty on such property.

ARTICLE 24. — ADJUSTMENT OF DELINQUENT TAXES DUE THE STATE FROM COUNTIES.

§ 1, c. 102, 1891. § 1347. **Commission to adjust delinquent taxes.** The state auditor and state examiner are hereby created a commission to adjust and determine the amount of delinquent taxes due to the state from the several counties, and the accounts between the state and such counties shall be adjusted in accordance with such determination when approved by the governor.

§ 2, c. 102, 1891. § 1348. **Statement of taxes charged.** The state auditor shall furnish the board of county commissioners of each county with a statement showing the amount of state or territorial taxes charged to such county for each year preceding the fourth day of November, 1889; also, showing the amount received by the state treasurer on account of such year's taxes, and the balance still unpaid as shown by the books in his office; such statement shall also show the amount of abatements claimed and allowed, if any; also the amount of penalty and interest paid each year.

§ 3, c. 102, 1891. § 1349. **Statement of unpaid taxes.** It is the duty of the board of county commissioners of each county on receipt of such statement to prepare or cause to be prepared, at the expense of such county, a statement of the unpaid taxes for each of the years mentioned in the preceding section, showing the amount of unpaid personal property taxes, the amount of abatements remaining in the hands of the treasurer for collection or the amount stricken from the list under the provisions of any law heretofore in force; also showing the amount of

taxes on real property uncollected for each year, the amount of abatements or taxes refunded each year and the reasons therefor. Said statement shall be made on such forms and in such manner as may be prescribed by the commission and forwarded to the state auditor as soon as completed.

§ 1350. **Abatements, how allowed.** Upon the receipt of the statements provided for above, it shall be the duty of the commission carefully to compare the same with the accounts of the state treasurer now in the auditor's office, and if it is satisfied that the abatements claimed are just and reasonable, it may allow the same and the state auditor shall credit each county with such abatements and notify the county auditor of each county of the adjustment as so determined, and the amount due each fund in the county and each township, city or school district shall be determined and adjusted on the same basis. § 4, c. 102, 1891.

§ 1351. **Abatements allowed, for what reason.** Such commission shall also allow abatements on real property for the following reasons: On account of double assessments of property; on all lands assessed and taxed prior to the entry thereof according to the laws of the United States; on all lands when the taxes have been declared illegal by a court of competent jurisdiction. § 5, c. 102, 1891.

§ 1352. **Consolidated tax account.** When the true balance due from each county to the state shall have been determined, the state auditor shall open an account with each county, and charge the balance due for each year in one account to be known as the "consolidated tax account," and all taxes collected by the counties for the years so adjusted shall be credited to such account and may be reported as collections on account of the "consolidated tax account." § 6, c. 102, 1891.

§ 1353. **Discrepancies.** Whenever any material discrepancy shall be found to exist between the statements returned from the several counties and the account as shown by the books in the state auditor's office, the commission may, if it deems it necessary, either in person or by some one duly authorized by it, make an examination of the accounts and tax lists of such county and ascertain wherein the discrepancy lies, and make the adjustment in accordance with such examination; any expense necessarily incurred under the provisions of this section shall be paid out of the general fund of the state on proper vouchers approved by the governor. § 7, c. 102, 1891.

§ 1354. **Attorney general to enforce payment, when.** In the event of the refusal or neglect of any county to furnish the statement above required, such commission shall have power to have such statement made at the expense of the county, and in case of the refusal of any county to pay the expense so incurred, the attorney general shall proceed to enforce such payment according to law. § 8, c. 102, 1891.

#### ARTICLE 25.—PROTECTION OF PUBLIC CREDIT.

§ 1355. **Funding warrants, when issued.** The state treasurer, with the advice and consent of the governor and state auditor, is authorized and directed to pay all state warrants legally issued, that may have been or may hereafter be presented to him for payment; provided, that the money to pay the same can be obtained at a rate of interest not to exceed eight per cent; and the auditor is authorized and directed to issue funding warrants in lieu of the warrants so paid and the treasurer is authorized and directed § 2, c. 58, 1879.  
§ 1, c. 113, 1891.  
§ 1, c. 94, 1891.  
am'd.

to apply all state funds by him received and not otherwise lawfully appropriated, to the payment and cancellation of the so-called funding warrants; provided, further, that nothing in this chapter shall authorize said treasurer, nor shall said auditor and governor consent to issue funding warrants in excess of eighty thousand dollars, nor shall they anticipate the needs of the state for a longer period than sixty days at any one time.

## CHAPTER 19.

### THE MILITIA.

- § 1, c. 86, 1891. **§ 1356. Who compose militia.** All able bodied male citizens, residents of this state, being eighteen years of age and under the age of forty-five years, excepting persons exempt by law, shall be enrolled in the militia and perform military duty in such manner, not incompatible with the constitution and laws of the United States, as hereinafter prescribed.
- § 2, c. 86, 1891. **§ 1357. Assessors to make list of persons.** It shall be the duty of the assessors in each assessor district in this state, when making the assessment, to make out a list containing the names of all persons in their respective districts liable to perform military duty, and file a copy of such list with the register of deeds in the county, to be by him kept as a matter of reference, and also to transmit to the secretary of state a copy to be by him kept as a matter of reference in his office, which copy shall be filed in the offices of the persons aforesaid on or before the first day of January in each year.
- § 3, c. 86, 1891. **§ 1358. When and how militia called into service.** The militia thus enrolled shall be subject to perform no active military duty, except in case of war, invasion, or to prevent invasion, riot or insurrection. In such case the commander in chief is authorized to order out, from time to time, for actual service, as many of the militia thus enrolled as necessity may require, and to provide for their organization in the manner hereinafter prescribed for the organization of volunteer militia; but in all such cases the organized volunteer militia shall first be ordered into service. The militia while in active service shall be governed by the military law of the state, and the rules and articles of war of the United States; and when any troops are in the field for the purposes aforesaid, the senior ranking officer of the troops present shall take command; provided, that no person shall be eligible to a command in the militia of this state, except citizens of the United States or persons who have declared their intention to become such.
- § 4, c. 86, 1891. **§ 1359. North Dakota National Guard, how composed.** The organized militia of the state shall be known as the North Dakota National Guard, and shall consist of one regiment of infantry, one adjutant general's department, one inspector and judge advocate department, one supply department, an engineer and ordnance department, a medical department and such staff officers as may be necessary; provided, that in the discretion of the governor, a battalion of artillery and one or more troops of cavalry may be organized, but only one company, battery or troop shall be organized in a county. This section shall not affect existing organizations.

**§ 1360. Governor, commander in chief. Brigadier general may select aides-de-camp.** The governor shall be the commander in chief of the militia, and may appoint as many aides-de-camp as he may deem necessary who shall have the rank of colonel. He shall have full power to appoint the adjutant general, inspector and judge advocate general, chief of supply, chief of engineers and ordnance, and officers of the medical department. He may at his discretion organize the North Dakota National Guard into a brigade, in which case he shall appoint a brigadier general to command the same. The brigadier general may select two aides-de-camp from the captains or lieutenants of the national guard. § 5, c. 86, 1891.

**§ 1361. Commissions issued by governor. Tenor of.** All commissions shall be issued by the governor, and no commissioned officer shall be removed from office except by sentence of court martial. § 6, c. 86, 1891.

**§ 1362. How equipped and organized. May be increased, when.** The troops of the line which are uniformed and equipped may at the discretion of the governor be organized into a brigade under the command of the brigadier general as senior officer, but the commander in chief shall have power to change the brigade organization, and in case of riot, invasion, or other imminent danger beyond the control of the civil authorities, to increase the numerical strength of the existing organization, or form new brigades, regiments and companies as the exigencies of the service may require. § 7, c. 86, 1891.

**§ 1363. Battalion of artillery, what to consist of.** The battalion of artillery shall consist of two batteries of two guns each, one major, one assistant sergeant with the rank of captain, one adjutant and one commissary of supply, each of the rank of first lieutenant, one sergeant major, one sergeant of supply, one hospital sergeant and one chief trumpeter; provided that two batteries are organized. § 8, c. 86, 1891.

**§ 1364. Battery of artillery, what to consist of.** Each battery of artillery shall consist of two guns with one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, two teamsters, not less than twenty nor more than forty privates, except as the commander in chief may direct; provided that two troops are organized. § 9, c. 86, 1891.

**§ 1365. Cavalry battalion, what to consist of.** The battalion of cavalry shall consist of two troops, one major, one assistant sergeant with rank of captain, one adjutant and one commissary of supply, each with rank of first lieutenant, one sergeant major, one hospital sergeant, and one chief trumpeter. § 10, c. 86, 1891.

**§ 1366. Cavalry troop, what to consist of.** Each troop of cavalry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, one farrier, one saddler, two teamsters, and not less than twenty nor more than forty privates except as the commander in chief may direct. § 11, c. 86, 1891.

**§ 1367. Infantry regiments, what to consist of.** Each regiment of infantry shall consist of ten companies, one colonel, one lieutenant colonel, one major, one surgeon with rank of major, one adjutant, one commissary of supply, one assistant surgeon and one chaplain, each with rank of captain, one sergeant major, one sergeant of supply, one hospital sergeant, one chief musician, one drum major, two color sergeants, and not more than twenty musicians; provided, that § 12, c. 86, 1891.

in the discretion of the governor the number of companies may be increased to twelve, and the number of majors may be increased to three in case there shall be a twelve company organization.

§ 13. c. 86, 1891.

**§ 1368. Infantry company, what to consist of.** Each company of infantry shall consist of one captain, one first lieutenant, one second lieutenant, one first sergeant, four sergeants, four corporals, two musicians, and not less than twenty nor more than forty privates, except as the commander in chief may direct.

§ 14. c. 86, 1891.  
am'd.

**§ 1369. Commander in chief may discharge or consolidate, when.** Whenever any troop, battery or company shall have less than the minimum number of privates fixed for each organization, the commander in chief may at his discretion discharge or consolidate such organizations, and all officers and men honorably discharged under the provisions of this section shall be entitled to receive a certificate of discharge, showing length of service, which time shall be credited to them in case of re-entering the service.

§ 15. c. 86, 1891.

**§ 1370. Who may enlist in North Dakota National Guard.** All able-bodied men of good character and proper age may be enlisted in the national guard for a term of three years, and after the expiration of the first enlistment may re-enlist at any time thereafter for terms of one or more years, at their option. Any person having an honorable discharge from the regular or volunteer service of the United States, or militia of this state, may on enlisting in the national guard be credited with length of service as shown by such discharge, but no person over forty-five years of age shall be re-enlisted except with the approval of the surgeon, and no enlisted man shall leave one organization to join another unless he shall be duly transferred.

§ 16. c. 86, 1891.

**§ 1371. Enlisted men entitled to discharge, when.** Each officer and enlisted person shall be held as in the service until properly discharged; and each enlisted person shall be entitled to and receive his discharge and certificate of service on the expiration of his term of enlistment, from his immediate commanding officer.

§ 17. c. 86, 1891.

**§ 1372. Officers and men may be transferred or discharged, when.** Officers and men removing from one location to another in the state may be transferred from one organization to another on application to the adjutant general, approved by their respective commanding officers. Any member of the guard moving permanently out of the state or the vicinity of the station of the organization to which he belongs, may be discharged and a certificate of service furnished upon his own application, but any member of the national guard who moves away from the vicinity of his company or other permanent headquarters, or absents himself from all duty for six months, shall unless proper explanation is accepted by his immediate commanding officer, be dropped from the rolls without discharge or certificate of service.

§ 18. c. 86, 1891.

**§ 1373. Adjutant general's department.** The adjutant general's department shall consist of one adjutant general with the rank of brigadier general.

§ 19. c. 86, 1891.

**§ 1374. Duties of adjutant general.** The adjutant general shall keep a register of all the officers and enlisted men of the military forces of the state; he shall make a full report on or before the first day of December in each year to the commander in chief upon the condition of the national guard, and a detailed statement of all duty performed by them during the preceding year; he shall publish



from time to time, as may be necessary, at the expense of the state, all laws, rules, regulations and orders relating to the military forces thereof, and distribute one copy to each commissioned officer and organization of the national guard, and to such officers of the state as may be affected thereby; he shall cause to be prepared and issued all blanks, books, forms and notices required for his office, or for the use of the national guard, and all books and forms so furnished shall be the property of the state. The seal of his office shall be transferred to his successor in office, and all copies of papers or records in his office, duly certified and authenticated under such seal, shall be evidence in all cases in like manner as the originals. On the certificate of the adjutant general the state auditor is directed to draw his warrant on the state treasurer, to be paid from the general fund, for the expenses incurred in carrying out the provisions of this section.

**§ 1375. Additional duties of adjutant general.** The adjutant general shall in addition to his other duties, organize and conduct a bureau of pensions for the purpose of assisting ex-soldiers or sailors, residents of the state, who may apply for pensions on account of wounds or disability incurred in the service of the United States, in establishing their claims, without fee or commissions. The salary of the adjutant general shall be one thousand dollars per annum, which with the necessary expenses incurred in conducting the bureau of pensions, office and clerk hire, furniture, fuel, lights, postage and stationery, not to exceed five hundred dollars per annum, shall be paid from the general fund by warrant drawn by the state auditor on the state treasurer, on the order of the governor. § 20, c. 86, 1891.

**§ 1376. Inspector and judge advocate general's department.** The inspector and judge advocate general's department shall consist of one inspector and judge advocate general, with the rank of colonel. He shall inspect each company, troop and department of the North Dakota National Guard at least once a year. He shall examine all officers as to their qualifications and fitness to fill the positions to which they have been elected or appointed, and all officers of such national guard shall hereafter, before being commissioned by the governor, procure a certificate from the inspector and judge advocate general certifying that such officer has passed a satisfactory examination, and is qualified and fit to fill the position to which he has been elected or appointed; but such examination shall not be deemed necessary in cases of officers appointed on the staff of the commander in chief or on the regimental staff. He shall make a full report on or before the first day of December in each year to the commander in chief, upon the efficiency, discipline and general condition of each organization. He shall also perform such duties as judge advocate general as the commander in chief may direct. The inspector and judge advocate general shall receive his actual expenses and the sum of five dollars for each day actually on duty, and on the voucher of such officer, approved by the adjutant general and governor, the state auditor shall draw his warrant on the state treasurer, to be paid from the general fund; but the sum so paid shall not in any year exceed five hundred dollars. § 21, c. 86, 1891.

**§ 1377. Supply department.** The supply department shall consist of one chief of supply with the rank of colonel and two assistant commissaries of supply with the rank of major. The assistants shall be assigned to appropriate duties with the brigade. § 22, c. 86, 1891.

- § 23, c. 86, 1891. **§ 1378. Chief of supply. Bond and duties of.** The chief of supply shall give a bond to the state in the sum of ten thousand dollars with two sureties to be approved by the commander in chief, conditioned for the faithful discharge of his duties. He shall keep a just and true account of all expenses necessarily incurred in the military service of the state and such account shall be paid on the order and approval of the commander in chief. He shall purchase and distribute to the national guard all military stores and supplies authorized by law, shall pay all incidental expenses of the service, including transportation, freight, express, postage and telegrams on public business, pay the officers and members of the national guard, furnish clothing, rations, tools, camp and garrison equipage, make contracts for and pay the rent for offices, armories, storehouses, camp grounds, and such other duties authorized by law, as he may be directed to perform by the orders of the commander in chief.
- § 24, c. 86, 1891. **§ 1379. Engineer and ordnance department.** The engineer and ordnance department shall consist of one chief of engineers and ordnance, with the rank of colonel, and one assistant with the rank of major.
- § 25, c. 86, 1891. **§ 1380. Duty of officers.** It shall be the duty of the officers of this department to provide arms, ammunition and equipments for the national guard, to inspect buildings, lay out camps, be inspectors of rifle practice, and to perform such other service as the commander in chief may direct.
- § 26, c. 86, 1891. **§ 1381. Medical department.** The medical department shall consist of one surgeon general with the rank of colonel, one medical purveyor with the rank of lieutenant colonel, and one apothecary and storekeeper with the rank of captain; but no person shall be appointed to this department or commissioned to similar duties in this line unless he is a graduate of some legally incorporated school of medicine.
- § 27, c. 86, 1891. **§ 1382. Duties of.** It shall be the duty of these officers, assisted by the medical officers of the line, to provide the necessary medical supplies and care for the sick and wounded of the national guard when on duty and perform such other service as the commander in chief may direct.
- § 28, c. 86, 1891. **§ 1383. Grades below the rank of field officer filled by election.** Every vacancy below the grade of field officer shall be filled by election, under such rules as the commander in chief may determine, and, in case of no election, he may appoint a suitable person to such office. The commander in chief shall decide all appeals in election cases under this section and order a new election in case he deems it necessary.
- § 29, c. 86, 1891. **§ 1384. Rank determined by date of election or appointment.** The respective rank of all officers shall be determined by the date of their election or appointment and the length of time of service in the North Dakota National Guard as a commissioned officer of such rank; provided, that in case of re-election or reappointment his rank shall be determined by the date of the first commission.
- § 30, c. 86, 1891. **§ 1385. Commanding officers appoint their staff, how.** Commanding officers of regiments or battalions shall detail their staff officers from the officers or enlisted men of their command, and appoint the noncommissioned officers of the organization by warrants. Staff officers so detailed will be dropped from the company rolls and the vacancy filled by promotion or appointment.

§ 1386. **Noncommissioned officers appointed, how.** Company, troop or battery commanders shall appoint noncommissioned officers of their commands, and forward the same to regimental or battalion headquarters, where a warrant shall be issued for the same, signed by the commanding officer. § 31, c. 86, 1891.

§ 1387. **Officers to take and subscribe oath.** Each officer, before entering upon the duties of his office, shall take and subscribe an oath of allegiance to the United States and to the state of North Dakota, which oath, duly executed, shall be filed in the office of the adjutant general. § 32, c. 86, 1891.

§ 1388. **Recruits to sign enlistment papers.** Each person recruited for the national guard shall sign enlistment papers in triplicate, which shall contain an oath of allegiance to the United States and to the state of North Dakota, and a resume of the duties to be performed. Such oath shall be taken before the troop, battery, company or battalion commanders, and when executed, one copy shall be forwarded to the adjutant general's office, one copy to the headquarters of the regiment or battalion, and the other copy filed with the official records of the organization to which the recruit is assigned. § 33, c. 86, 1891.

§ 1389. **Officers and men may be discharged, when.** Officers and enlisted men of the national guard may be discharged for physical or mental disability on the certificate of a surgeon, and under such rules and regulations as may be determined upon, but no honorable discharge shall be given any member of the national guard until he shall produce a certificate from his immediate commanding officer that he has returned, or satisfactorily accounted for all the money or other property of the state or any organization of the national guard issued to him or coming into his possession, and provided no certificate of service shall include the time any member was absent from duty without leave, which time of absence shall in no case be allowed in computing length of service. § 34, c. 86, 1891.

§ 1390. **Drill, discipline and uniform.** The drill, discipline and uniform of the national guard shall be the same as that of the army of the United States; but nothing in this section shall be so construed as to require companies now uniformed to supply new uniforms in the place of those now worn, until such time as it shall become necessary to provide a new uniform, which new uniform shall be the same as that worn by the United States regular army. The regulations of the army, articles of war and acts of congress of the United States shall be authority and shall govern in all cases not provided for by the laws of the state or the regulations and orders of the commander in chief. § 35, c. 86, 1891.

§ 1391. **Annual encampment.** There shall be an annual encampment, inspection and muster of all organizations of the national guard, for at least six consecutive days, at such time and place as the commander in chief shall order and direct. No person shall be mustered at such time or allowed to appear as a part of the national guard, unless he is duly commissioned or enlisted in the same, nor any member who does not appear uniformed, armed and equipped as required by the provisions of this chapter. Any officer who shall knowingly or willfully place or cause to be placed on such muster roll the name of any person not regularly or lawfully commissioned or enlisted, or the name of any man who is dead, or who has been discharged, transferred or dropped, or has lost his membership for any cause whatsoever, or one who has been convicted of a felony or has § 37, c. 86, 1891.  
am'd.

refused to do military duty for the six months immediately preceding the annual inspection, shall be deemed guilty of misdemeanor, and upon conviction shall be fined in a sum not less than fifty nor more than one hundred dollars, or may be cashiered.

§ 4, c. 30, 1895.

§ **1392. State military board.** There shall be a military board, consisting of the inspector and judge advocate general ex officio, and two other members to be appointed by the commander in chief, who shall be commissioned officers of the North Dakota National Guard, one of whom shall belong to the cavalry battalion of said national guard, and who shall ex officio be members of the military staff of the commander in chief, and hold their office for two years, or until their successors are appointed, unless sooner removed for cause. The state military board shall constitute an advisory body to the commander in chief on all military interests of the state. They are further authorized and empowered to prepare and to promulgate all articles, rules and regulations for the government of the North Dakota National Guard, not inconsistent with the laws of the United States or of this state, and which articles, rules and regulations when approved by the commander in chief, shall be in force and by him filed in the office of the secretary of state. The state military board shall have full control and charge of the state encampment grounds on Rock Island, Ramsey county, North Dakota, and shall provide such plans for laying out and improving the same as they shall deem advisable, subject to the approval of the commander in chief.

§ 5, c. 30, 1895.

§ **1393. Compensation of the members of the board.** The compensation of members of the state military board, while going to and from, and when in actual attendance at meetings of the board, shall be such as is prescribed by law for field duty and their actual subsistence and traveling expenses, and on the vouchers of these officers, approved by the adjutant general and governor, the auditor is directed to draw a warrant on the state treasurer, to be paid from the militia fund.

§ 33, c. 36, 1891.

§ **1394. Duty of each troop, battery and company each year.** In addition to the annual muster and inspection, each troop, battery or company, shall be obliged to perform during the year not less than five drills, parades, musters and inspections. There shall also be not less than six additional drills, at such times as the commanding officer may determine. Such other exercises may be had as the members of such organization shall prescribe in their by-laws. Any officer or man absent from any compulsory drill or parade, shall be fined or punished as fixed by the regulations.

§ 39, c. 36, 1891.

§ **1395. Powers of commanding officer.** The commanding officer at any parade, drill, muster or other rendezvous, may cause those under his command to perform any military duties he may require, and may place in arrest during the time of such meeting, and confine under guard if necessary, any officer or enlisted man who shall disobey the orders of his superior officer and may remove any other person who shall trespass upon the parade ground or armory, or in any way interrupt the orderly discharge of duty of those under arms. He shall prohibit and prevent the sale or use of all spirituous liquors, wine, ale or beer within the limits of the encampment, parade grounds or armory, and such limits shall be prescribed in orders by the officer commanding the parade or encampment, and also all hucksters, auction sales, gambling or games of chance must be abated as nuisances.

§ 1396. **Target practice.** To accustom the troops to the use of their arms target practice must be encouraged. The commander in chief shall order such practice as the allowance of ammunition shall permit, and he shall offer suitable medals, badges or trophies to be inscribed and given in the name of the state to the persons and organizations, who upon competition shall show their superior attainments as marksmen. The provisions of this section shall be carried out under orders and regulations issued by the commander in chief; provided, that not more than one hundred dollars shall be expended in any one year for the purchase of medals, badges or trophies. § 40, c. 86, 1891.

§ 1397. **Officers and men, how warned.** For the purpose of warning the officers, noncommissioned officers and other enlisted men for any parade, encampment or place of rendezvous the commanding officer shall issue his orders to such number of noncommissioned officers as he may deem necessary, requiring them respectively to warn each person belonging to the organization to appear at the place of rendezvous in compliance with such order. Each noncommissioned officer, to whom such order shall be directed, shall warn each person whom he shall therein be required to warn by reading the order or stating the substance thereof in the hearing of such person, or by leaving a notice thereof at his usual place of abode or business, as appears by the roster, with some person of suitable age and discretion, or by sending the same to him by mail, directed to him at his residence or post office nearest thereto. The return of service made by such noncommissioned officer, to his commanding officer, sworn to and certified, shall be evidence on the trial of any person returned as delinquent. In cases of riot, tumult, breaches of the peace and in aid of the civil authorities a verbal warning or order shall be sufficient. § 41, c. 86, 1891.

§ 1398. **When member excused.** The officer ordering a rendezvous of his command, may, upon good and sufficient grounds, excuse any member thereof from attendance at the same. § 42, c. 86, 1891.

§ 1399. **Power of commander in chief in case of public disturbance.** The commander in chief shall have power in case of insurrection, invasion or breaches of the peace, or imminent danger thereof to order into the active service of the state any or all of the national guard, militia or other military organizations of the state that he may deem necessary, and no member thereof, who shall be ordered out by proper authority for such duty shall be held answerable by any court, nor liable to civil prosecution for any acts done by him in the discharge of his lawful military duty on such occasion; and in such cases the forces called into service shall receive the same pay and allowance as is provided in section 1412. § 43, c. 86, 1891.

§ 1400. **Sheriff or mayor may call out troops, when.** In case of any breach of the peace, tumult, riot or resistance to process of this state, or such imminent danger thereof as will not admit of delay, it shall be lawful for any sheriff, or the mayor of any city to call in writing under his hand and seal for aid, upon the commandant of the national guard stationed therein or nearest thereto, and it shall be the duty of such commanding officer upon whom the call is made, to order out in aid of the civil authorities, such portion of his command, armed and equipped, as may be necessary to overcome the resistance and vindicate the supremacy of the law, and he shall immediately report to the commander in chief all that has been done and the circumstances of the case, and the forces called into service by such order shall receive the same pay and allowance § 44, c. 86, 1891,

as is provided in section 1412 and the amount of such pay and allowance shall be a portion of the county and city charges of such county or city from the state, to be levied and raised as other charges are levied and raised.

§ 45, c. 86, 1891. **§ 1401. Member of national guard deemed deserter, when.** Any member of the national guard ordered into service under the provisions of the two preceding sections, who does not appear at the time and place fixed by his commanding officer, or produce a certificate of physical disability from a physician in good standing, shall be deemed a deserter and punished according to the rules and articles of war.

§ 46, c. 86, 1891. **§ 1402. Articles of War of United States adopted, when.** The articles of war governing the army of the United States, so far as they are practicable and not incompatible herewith, are adopted for the government of the national guard and militia of this state with the following exceptions: The commander in chief is alone authorized to order general courts-martial and courts of inquiry; battalion or other superior commanders may order garrison courts-martial, which are authorized to try all offenders. The maximum number of members of these courts is fixed as follows: General courts, seven members; courts of inquiry and garrison courts-martial, five members. Minimum number general courts, five members, and courts of inquiry and garrison courts, three members each, as the exigencies of the case permit.

§ 47, c. 86, 1891. **§ 1403. Fines, how disposed of.** Fines of offenders under the preceding section may be paid to the court or to the treasurer of the organization to which the offender belongs. All fines imposed and collected shall be deposited to the credit of the clothing and equipment fund of the organization to which the member paying the fine belongs or, if a staff officer, to the general fund of the state. A receipt for money so deposited shall be forwarded to be filed with the proceedings of the court in such case.

§ 48, c. 86, 1891. **§ 1404. Powers of courts-martial.** Any court authorized by this chapter shall have the same power as other courts of the state to compel the attendance of witnesses through the senior officer or president of the court, to administer oaths to witnesses and to issue subpoenas for all witnesses that may be deemed necessary by the court. He may issue attachment for a witness, and all sheriffs and constables are required to execute any precept issued by such president or court for that purpose. The person attached for nonattendance shall pay the usual fees for such service, besides the penalty provided, unless he satisfies the court that his failure to attend was excusable. Each witness not appearing in obedience to such subpoena when duly served with a copy of the same, and not having a sufficient excuse, shall forfeit to the state a sum not less than one nor more than ten dollars, to be paid and credited as fines for similar offenses before other courts of the state.

§ 49, c. 86, 1891.  
am'd. **§ 1405. Power to punish for contempt.** Any person behaving in a disrespectful manner, or using any insulting language in the presence of any military court or to a member thereof in open court, intending to disturb or impair the authority of such court, may be punished as for contempt of court by confinement in the jail of the county in which the court sits, by warrant under the hand of the president of such court. The warrant shall be directed to the sheriff or any constable or marshal of such county or to the officer attending

the court, and shall set forth the circumstances of the offense adjudged to have been committed, and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail and in close confinement for a limited time, not to exceed three days. Such sheriff shall obey the warrant and keep the person as directed, unless he is discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment for contempt in such courts.

**§ 1406. Sheriff of county, marshal of court.** A military court sitting in any county shall be attended by the sheriff of such county or some suitable person designated by him, who shall be the marshal of the court and perform the usual duties of such marshal, and execute any process lawfully issued by such court and perform all acts and duties by this chapter imposed on and authorized to be performed by any sheriff, marshal or constable, and the officer ordering the court shall furnish a copy of his order to the sheriff of the county where the court is directed to meet, which order shall be notice to the sheriff to appear or to designate some one to appear as marshal of the court. § 50, c. 86, 1891.

**§ 1407. Compensation of marshal. Conversion of money is embezzlement.** Each marshal appointed for a military court, shall be paid two dollars for each day's attendance before the court, and his actual and necessary traveling expenses in serving subpoenas or executing any process of the court, the same to be paid on the certificate of the president of the court, certifying the number of days employed, and the other duties performed, and be paid in the same manner that other accounts of the state are paid; but no marshal shall receive any fees from the person served, and any refusal or neglect on the part of the sheriff or marshal to execute any warrant herein required, or make return and pay over all the money collected as fines, shall subject the officer so offending to double the amount of such fines and penalties. The conversion to his own use of moneys so collected by any sheriff or marshal shall be deemed embezzlement, and punished as such in any court of the state having jurisdiction of such offense. § 51, c. 86, 1891. am'd.

**§ 1408. Fines, how collected.** For the purpose of collecting fines imposed by courts-martial, the president of the court shall, within twenty days after the proceedings of the court have been approved, make a list of all the persons fined, describing them distinctly and showing the sums imposed on each person, and not paid. He shall then draw his official warrant directed to the sheriff of the county or the marshal of the court, commanding him to levy such fines, together with the costs, out of the goods and chattels of the delinquent, sale thereof to be made as provided by law, and no property shall be exempt from the payment of such fines and penalties. In default of sufficient goods and chattels to satisfy the same, such sheriff, marshal or constable shall take the body of such delinquent and confine him in the county jail, and the jailer shall keep such delinquent closely confined without bail for two days for any fine or penalty not exceeding five dollars and one additional day for each dollar above that sum, unless such fine with the costs and jailer's fees is sooner paid; but no such imprisonment shall extend beyond ten days and the officer ordering the court may remit such fines and penalties. § 52, c. 86, 1891. am'd.

**§ 1409. Refusal or neglect to pay fine.** Any member of the national guard fined by a general or other court-martial who shall § 53, c. 86, 1891.

neglect or refuse to pay such fine within twenty days after the same was imposed, may be published in orders by the officer ordering the court, and dishonorably dismissed from the service without allowance of time for which he has served and such dismissal shall disqualify him from serving in the national guard for three years thereafter. For offenses against the by-laws, rules and regulations of any organization any dues may be collected by court-martial as provided in this chapter.

§ 54, c. 86, 1891.

**§ 1410. Action against members of military court.** No action shall be maintained against any member of the military court on account of the imposition of a fine or penalty, or for the execution of a sentence on any person, if such person shall have been returned as delinquent, and duly summoned before such court or shall have appeared before such court to answer to the charges made against him.

§ 55, c. 86, 1891.

**§ 1411. No action, when.** When a suit or proceeding is commenced in any court by any person against an officer of the national guard for any act done by such officer in his official capacity in the discharge of any duty under this chapter, or against person acting under authority or order of such officer, or by virtue of any warrant issued by him pursuant to law, the judge advocate general or some officer designated by the governor, shall appear for him and the plaintiff in such suit may be required to file security for the payment of the costs which may be incurred therein by the defendant. In case the plaintiff shall be nonsuited, or have verdict or judgment rendered against him, the defendant shall recover treble costs and such attorney's fee as the court shall allow, which fee shall be in the first instance paid by the state, and be refunded by defendant on collection of the judgment.

§ 56, c. 86, 1891.

**§ 1412. Compensation of officers and men.** There shall be allowed and paid as hereinafter provided to such officers and enlisted men as shall be ordered to attend annual encampments in pursuance of the provisions of this chapter, the following sum each, for each day actually on duty, or in going to and returning from the same, the certificate of the officer ordering the duty to be evidence of such service; all officers and men ordered into actual service shall be paid double the amount paid at annual encampments:

To musicians, privates and teamsters, seventy-five cents.

To corporals, farriers and saddlers, one dollar.

To sergeants and drum majors, one dollar and fifteen cents.

To first sergeants, principal musicians and chief trumpeters, one dollar and twenty-five cents.

To sergeant majors, sergeants of supply, hospital sergeants and chief musicians, one dollar and fifty cents.

To second lieutenants, one dollar and seventy-five cents.

To first lieutenants, one dollar and seventy-five cents.

To captains and company commanders, two dollars.

To lieutenant colonels, majors, or battalion commanders, two dollars and twenty-five cents.

To brigadier general and colonel, three dollars.

To staff officers, the same as officers of like grade in the line or field.

§ 57, c. 86, 1891.

**§ 1413. Members of guard to provide horses. Compensation therefor.** All members of the national guard who are required to be mounted shall provide for their own use a horse and horse



equipments, but shall be allowed forage for the same when on duty, and be paid the sum of one dollar for each day such horse is on duty in the service of the state, or as may be provided in this chapter. The sums authorized by this section shall be paid by the chief of supply in such manner as the commander in chief may direct.

**§ 1414. Compensation of officers detailed on courts or under orders.** § 58, c. 86, 1891. All officers detailed to serve on any board or commission ordered by the commander in chief or on any court of inquiry, court martial or delinquency court ordered by the proper authority in pursuance of this chapter shall be paid their subsistence and actual traveling expenses, and for each day actually employed on such board or court or engaged in the business thereof or in traveling to and from the place of meeting of such board or court, a sum equal to one day's pay for field duty.

**§ 1415. Compensation of officers and men on duty.** § 59, c. 86, 1891. All officers and enlisted men of the national guard while on duty in camp, or assembled pursuant to the order of the commander in chief or the sheriff of any county or the mayor of any city shall receive the compensation provided for in section 1412 and also their subsistence in kind, or commutation thereof and their transportation or mileage. The rates of commutation or mileage shall be fixed by order of the commander in chief.

**§ 1416. Clothing and equipment fund, how constituted.** § 60, c. 86, 1891. On the certificate of the adjutant general each regimental headquarters, staff and band, battalion and staff, troop, battery or company shall be allowed annually a sum equal to seven dollars for each of its officers and men present for duty, based upon the percentage present for duty for the year at the five compulsory parades required in section 1394, and the annual muster and inspection, which sums, together with fines and penalties collected from delinquent officers and men, shall constitute the clothing and equipment fund of such organization and the clothing and equipment purchased with such fund shall be the property of the state.

**§ 1417. Transportation.** § 61, c. 86, 1891. The officers and members of the national guard shall be allowed free transportation for themselves, their horses and equipments and the property of the state, going to and returning from any service authorized or directed by law, their subsistence in kind or commutation therefor and their quarters, tents and camp equipments, and the chief of supply and the officers of his department shall at all times be prepared to furnish such things as may be required by order of the commander in chief.

**§ 1418. Property exempt from taxation.** § 62, c. 86, 1891. All property belonging to any organization of the national guard shall be exempt from taxation or assessment for any purpose whatever, and in case any such organization shall erect or purchase an armory or assembly room, the annual rent of the same authorized in the following section may be paid into the treasury of such organization.

**§ 1419. Armory rent, how paid.** § 63, c. 86, 1891. The commanding officer of each company, troop or battery and the treasurer of each regimental band shall provide suitable rooms at a convenient place in the city where each organization is located or stationed with the necessary furniture, fuel, lights, drawers, lockers, closets and gun racks for an armory, assembly and drill room for such organization, and such rooms shall be under the exclusive control of the commanding officer. There shall be an annual appropriation of three hundred dollars from

the militia fund for the rent and furnishing of such armory or band quarters for each organization of the national guard to be paid by the state.

§ 64, c. 86, 1891. **§ 1420. National guard exempt from jury duty and poll tax.** Each member of the North Dakota National Guard shall be exempt from jury duty and from the payment of poll tax.

§ 65, c. 86, 1891. **§ 1421. Exempt from arrest, when. Have right of way on highway.** No person belonging to the military forces shall be arrested on any civil process while going to, remaining at or returning from any place at which he may be required to attend for military duty. Any portion of the national guard performing any duty according to law shall have the right of way in any street or highway through which they may pass; provided, the carriage of the United States mails, the legitimate functions of the police and the progress and operations of fire engines and fire departments shall not be interfered with thereby.

§ 66, c. 86, 1891. **§ 1422. Officers to report, when.** Each officer who receives arms, accoutrements, clothing, camp equipage, rations or stores of any kind for the use of his command, or for issue to troops shall render to the chief of the departments furnishing the same a report or return of such supplies, according to the forms which may be prescribed, and such reports shall be furnished when called for, but not oftener than once in two months.

§ 67, c. 86, 1891. **§ 1423. Military outfits and supplies not to be sold or disposed of.** The clothing, arms, military outfits, accoutrements and stores furnished by the state to the national guard shall not be sold, bartered, exchanged, pledged, loaned or given away and the possession of any such property by any person not a member of the guard shall be prima facie evidence of such sale, barter, exchange, pledge, loan or theft. Such property may be seized and taken from any person not authorized to keep the same, by any officer or soldier of the state, and shall thereupon be delivered to any officer of the state authorized to receive the same.

§ 68, c. 86, 1891. **§ 1424. Lost or stolen property, how valued.** All property of the state which is lost, stolen, damaged or destroyed in the military service, shall be acted upon by a disinterested inspector or officer, detailed for that purpose, who shall make a full investigation and report of all the facts and circumstances of the case, and if any person is found or deemed responsible for the loss or damage of the property beyond reasonable wear and tear by service, the inspector shall assess and fix a reasonable value on the property lost, damaged or destroyed, and such person shall pay the sum so assessed into the state treasury. In the event of such person's failure or neglect to reimburse the state, suit may be brought in the name of the state in any court of competent jurisdiction for the recovery of the same under such regulations as the governor shall prescribe.

§ 1, c. 87, 1891. **§ 1425. Appropriation.** For the purpose of carrying out the provisions of this chapter there is hereby annually appropriated the sum of eleven thousand dollars or so much thereof as may be necessary, out of any money in the state treasury; and all warrants against such appropriation shall be drawn by the state auditor upon the state treasurer upon the certificate of the adjutant general, approved by the governor.

CHAPTER 20.

MINES AND MINING.

ARTICLE 1.—LOCATION AND SIZE OF CLAIMS.

§ 1426. **Length of lode claim fifteen hundred feet.** The length of any lode claim hereafter located within this state may equal but shall not exceed fifteen hundred feet along the vein or lode. § 1. c. 31, Pol. C.

§ 1427. **Width of lode one hundred and fifty feet.** The width of lode claims shall be one hundred and fifty feet on each side of the center of the vein or crevice; provided, that any county may at any general election determine upon a greater width not exceeding three hundred feet on each side of the center of the vein or lode, by a majority of the legal votes cast at such election, and any county by such vote at such election may determine upon a less width than above specified; provided, that not less than twenty-five feet on each side of the vein or lode shall be prohibited. § 2, c. 31, Pol. C.

§ 1428. **Discoverer must record his claim.** The discoverer of a lode shall within sixty days from the date of discovery record his claim in the office of the register of deeds of the county in which such lode is situated by a location certificate, which shall contain: § 3. c. 31, Pol. C. § § 1.2, c. 96, 1881.

1. The name of the lode.
2. The name of the locator.
3. The date of location.
4. The number of feet in length claimed on each side of the discovery shaft.
5. The number of feet in width claimed on each side of the vein or lode.
6. The general course of the lode as near as may be.

§ 1429. **Certificate void, when.** Any location certificate of a lode claim which shall not contain the name of the lode, the name of the locator, the date of location, the number of lineal feet claimed on each side of the discovery shaft, the number of feet in width claimed, the general course of the lode and such description as shall identify the claim with reasonable certainty shall be void. § 4. c. 31, Pol. C.

§ 1430. **Manner of locating claim.** Before filing such location certificate the discoverer shall: § 5. c. 31, Pol. C. § 3, c. 96, 1881.

1. Locate his claim by first sinking a discovery shaft thereon sufficient to show a well defined mineral vein or lode.
2. By posting at the point of discovery on the surface, a plain sign or notice containing the name of the lode, the name of the locator and the date of discovery, the number of feet claimed in length on either side of the discovery and the number of feet in width claimed on each side of the lode.
3. By marking the surface boundaries of the same.

§ 1431. **Marking surface boundaries.** Such surface boundaries shall be marked by eight substantial posts hewed or blazed on the side facing the claim and plainly marked with the name of the lode and the corner, end or side of the claim that they respectively represent and sunk in the ground as follows: One at the corner and one at the center of each side line and one at each end of the lode. § 6. c. 31, Pol. C. § 4, c. 96, 1881.

When it is impracticable on account of rock or precipitous ground to sink such posts, they may be placed in a monument of stone.

§ 7, c. 31, Pol. C.

**§ 1432. Requisites of location.** Any open cut, cross-cut or tunnel at a depth sufficient to disclose the mineral vein or lode, or an adit of at least ten feet in along the lode, from the point where the lode may be in any manner discovered, shall be equivalent to a discovery shaft.

§ 8, c. 31, Pol. C.  
§ 5, c. 96, 1881.

**§ 1433. Time within which labor must be performed.** The discoverer shall have sixty days from the time of uncovering or disclosing a lode in which to sink a discovery shaft thereon.

§ 9, c. 31, Pol. C.

**§ 1434. Certificate construed to contain what.** The location or location certificate of any lode claim shall be so construed as to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lies inside of such lines extended vertically, with such parts of all lodes or ledges as continue by dip beyond the side lines of the claim, but shall not include any portion of such lodes or ledges beyond the end lines of the claim or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

§ 10, c. 31, Pol. C.

**§ 1435. Claim not extended beyond the exterior line.** If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such lode may not be followed in its longitudinal course beyond the point where it is intersected by the exterior.

§ 12, c. 31, Pol. C.

**§ 1436. Owner of land may demand security of miner.** When the right to mine is in any case separate from the ownership or right of occupancy to the surface, the owner or rightful occupant of the surface may demand satisfactory security from the miner and if it is refused may enjoin such miner from working until such security is given. The injunctive order shall fix the amount of bond.

§ 13, c. 31, Pol. C.

**§ 1437. Amended certificate may be filed.** If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing his surface boundaries, or of taking in any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefit of this chapter, such locator or his assigns may file an additional certificate subject to the provisions of this chapter; provided, that such relocation does not interfere with the existing rights of others at the time of such relocation; and no such relocation nor the record thereof shall preclude the claimant from proving any such title as he may have held under previous locations.

§ 14, c. 31, Pol. C.  
§ 6, c. 96, 1881.

**§ 1438. Amount of work that must be done annually.** The amount of work to be done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States; provided, that the period within which the work required to be done annually on all unpatented claims so located shall commence on the first day of January succeeding the date of the location of such claim.

§ 16, c. 31, Pol. C.

**§ 1439. Relocating abandoned claims.** The relocation of abandoned lode claims shall be made by sinking a new discovery

shaft and fixing new boundaries in the same manner as if it were the location of a new claim, or the relocater may sink the original shaft, cut or adit to a sufficient depth to comply with sections 1430 and 1434, and erect new or adopt the old boundaries, renewing the posts if removed or destroyed. In either case a new location stake shall be erected. In any case, whether the whole or part of an abandoned claim is taken, the location certificate must state that the whole or any part of the new location is located as abandoned property.

**§ 1440. Certificate can contain but one location.** No location certificate shall claim more than one location, whether the location is made by one or several locators; and if it purports to claim more than one location it shall be absolutely void, except as to the first location therein described; and if they are described together, or so that it cannot be told which location is first described, the certificate shall be void as to all. § 17, c.31, Pol.C.

**§ 1441. Fee for recording.** The register of deeds shall be entitled to receive the sum of one dollar for each location certificate recorded and certified by him and shall furnish the locator with a certified copy of such certificate when demanded, for which he shall be entitled to receive fifty cents. § 18, c.31, Pol.C.

## ARTICLE 2.—DISPUTED MINING PROPERTY.

**§ 1442. Judge may order survey of mines in cases of disputed property.** In all actions in any district court of this state wherein the title or right of possession to any mining claim shall be in dispute, the court or judge thereof may, upon application of any of the parties to such suit, enter an order for the underground as well as surface survey of such part of the property in dispute as may be necessary to a just determination of the question involved. Such order shall designate some competent surveyor not related to any of the parties to such suit or in anywise interested in the result of the same; and upon the application of the party adverse to such application, the court may also appoint some competent surveyor, to be selected by such adverse applicant, whose duty it shall be to attend upon such survey and observe the method of making the same; such second survey shall be at the cost of the party asking the same. It shall also be lawful in such order to specify the names of witnesses named by either party not exceeding three on each side, to examine such property, who shall be allowed to enter into such property and examine the same; such court or the judge thereof may also cause the removal of any rock, debris, or other obstacle in any of the drifts or shafts of such property, when such removal is shown to be necessary to a just determination of the question involved; provided, however, that no such order shall be made for survey and inspection except upon notice of the application for such order of at least six days, and not then except by agreement of parties or upon the affidavit of two or more persons that such survey and inspection is necessary to the just determination of the suit, which affidavit shall state the facts in such case and wherein the necessity for survey exists; nor shall such order be made unless it appears that the party asking therefor had been refused the privilege of survey and inspection by the adverse party. § 19, c.31, Pol.C.

**§ 1443. Writs of injunction may be issued for affirmative relief.** The district court or the judge thereof in vacation

shall have, in addition to the powers already possessed, power to issue writs of injunction for affirmative relief, having the force and effect of a writ of restitution, restoring any person to the possession of any mining property from which he may have been ousted by force and violence or by fraud or from which he is kept out of possession by threats, or whenever such possession was taken from him by entry of the adverse party on a Sunday or legal holiday or while the party in possession was temporarily absent therefrom. The granting of such writ shall extend only to the right of possession under the facts of the case in respect to the manner in which the possession was obtained, leaving the parties to their legal rights on all other questions as though no such writ had issued.

## CHAPTER 21.

### DRAINS.

- § 1, c. 51, 1895.    **§ 1444. When drains may be constructed.** Water courses, ditches and drains for the drainage of sloughs and other low lands may be established, constructed and maintained in the several counties of this state whenever the same shall be conducive to the public health, convenience or welfare under the provisions of this chapter. The word "drain" when used in this chapter shall be deemed to include any natural water course opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drains constructed for such purpose.
- § 2, c. 51, 1895.    **§ 1445. Power of county commissioners. Petitions.** The board of county commissioners of any organized county in this state shall have power and is authorized at any meeting of the board, by a majority vote of all the members to appoint on the petition of any person interested, three freeholders of the county, as a board of drain commissioners of such county, who shall hold office for two years, and until their successors are appointed and qualified. The board of county commissioners may remove for cause any or all of such drain commissioners, and in case of a vacancy may fill the same by appointment.
- § 3, c. 51, 1895.    **§ 1446. Oath of office. Bond.** Any person appointed as a member of the board of drain commissioners shall within ten days after his appointment take, subscribe and file in the office of the county auditor an oath faithfully to perform the duties of a drain commissioner under the law, and within the same time make, execute and file in such auditor's office a bond to the county with sureties to be approved by the auditor in such sum as shall be ordered by the board of county commissioners, conditioned for the faithful discharge of his duties as drain commissioner.
- § 4, c. 51, 1895.    **§ 1447. Petitions in writing. Plans and specifications.** A petition for the construction of a drain may be made in writing to the board of drain commissioners, if among the leading purposes of the proposed drain are benefits to the health, convenience or welfare of the people of any city or other municipality. The petition shall be signed by a sufficient number of the citizens of such municipality or municipalities to satisfy the board of drain commissioners that there is a public demand for such drain. If the chief purpose of such

drain is the drainage of agricultural, meadow, grazing or other lands, the board of drain commissioners shall require that the petition be signed by the owners or legal representatives of such lands, as in the aggregate will, in the event of the construction of the drain, be liable to assessment for a major portion of the cost thereof, upon the presentation of a petition as hereinbefore provided, and filing of the same. The board of drain commissioners shall personally, as soon as practicable proceed to examine the line of the proposed drain and if in its opinion it is necessary and for the public good, it shall cause a survey of the line thereof to be made by a competent surveyor, who shall establish the commencement and terminus and determine the route, width, length and depth thereof. For the purpose of making examinations or surveys, the board of drain commissioners, surveyor and their employees may enter upon land traversed by any such proposed drain, or upon other lands when necessary. Such surveyor shall prepare profiles, plans and specifications of the proposed drain, an estimate of the cost thereof and a map or plat of the lands to be drained, showing the regular subdivisions thereof, all of which shall be filed in the office of the county auditor of the county in which such drain is proposed to be constructed subject to inspection. In locating a drain the board of drain commissioners may under the advice of the surveyor vary from the line described in the petition as it deems best. When the line proposed is along highways already established the drain shall be located at a sufficient distance from the center of such highway to permit a good road along the central line thereof; when the length of the line described in the petition does not give sufficient fall to drain the lands sought to be drained, the board of drain commissioners may extend the drain below the outlet named in the petition far enough to obtain a sufficient fall and outlet. Drains shall as far as practicable be located on dividing lines between sections or regular subdivisions thereof, but the general utility of the drain must not be sacrificed to avoid crossing any tract of land in such direction as the board of drain commissioners find advisable. All persons whose land may be affected by any such drain may appear before the board of drain commissioners and fully express their opinions upon the matters pertaining thereto.

**§ 1448. Commissioners may deny petition, when.** If upon such examination and survey or upon the trial in the district court it shall appear that there was not sufficient cause for making such petition or that the proposed drain would cost more than the amount of benefit to be derived therefrom, the board of drain commissioners shall deny the petition, and the petitioners shall be jointly and severally liable to such board for all costs and expenses incurred in the proceedings to be recovered by such board by action. § 5. c. 51, 1895.

**§ 1449. Right of way.** The title to the right of way for the construction of any proposed drain, if not conveyed to the county by the owner, may be acquired in such manner as may now or hereafter be prescribed by law. Such right of way when acquired shall be the property of the county. § 6. c. 51, 1895.

**§ 1450. Assessment of damages, how made.** Upon the assessment by the jury, court or referee of the amount of damages to which the respective owners of the right of way to be used for the construction of any proposed drain are entitled, the board of drain commissioners shall assess the per cent of the cost of acquiring the right of way in the manner provided in section 1452, make a return § 7. c. 51, 1895.

to the county auditor, containing all that is required in section 1453, except an order establishing the drain and make, serve and file the list provided for in section 1457. Thereupon the board of drain commissioners may issue warrants in a sum sufficient to pay the damages assessed for right of way, drawn upon the proper county treasurer and payable out of any funds in the hands of the treasurer for the construction of the drain for which such right of way is sought to be obtained and shall negotiate the same at not less than the par value thereof and pay into court for the benefit of the owners of the right of way the amount to which each is entitled according to the assessment of damages, paying the surplus, if any, to the county treasurer, who shall place the same to the credit of the proper drain fund. If warrants are not issued, or if issued, cannot be negotiated, no further proceedings shall be taken until the special tax levied to pay for the right of way is collected and paid into the court for the benefit of the owners of the right of way.

§ 8, c. 51, 1895. **§ 1451. Assessment of benefits subject to review.** Every assessment of benefits provided for in this chapter shall be subject to review and ten days' notice of the time and place when and where such assessment will be reviewed by the board of drain commissioners shall be given in the manner provided in section 1454. At the time and place appointed such board shall proceed to hear all complaints relative to such assessment and correct or confirm the same.

§ 3, c. 51, 1895. **§ 1452. Accruing benefits.** Upon acquiring the right of way either by conveyance or proceedings in court, the board of drain commissioners shall make an order establishing the drain, give the same a name by which it shall be recorded and indexed, and assess the per cent of the cost of constructing and maintaining such drain, which any county, township, city, village or town shall be liable to pay by reason of the benefits of such drain to the public health, convenience or welfare, and which any railroad company shall be liable to pay by reason of benefits to accrue to its property, and which any piece or parcel of land shall be liable to pay, by reason of benefits to accrue thereto, either directly or indirectly, by reason of the construction of such drain, whether such lands are immediately drained thereby, or can be drained only by the construction of other and connecting drains, but such assessment shall be subject to review by the commissioners as hereinafter provided.

§ 10, c. 51, 1895. **§ 1453. Commissioners shall make return to auditor.** After the order establishing a drain, and the assessment of benefits have been made as provided in the last section, the board of drain commissioners shall make return thereof to the county auditor, who shall record the same in a book to be provided for that purpose. Such return shall contain the petition for the drain, or a copy thereof, the minutes of the survey signed by the surveyor, conveyances of the right of way, if any, a copy of the judgment in the action to acquire the right of way, if any, together with the minutes of the doings of the board of drain commissioners in the premises, the order establishing the drain, and the assessment of benefits.

§ 11, c. 51, 1895. **§ 1454. Manner of letting contracts. Notice published.** Upon the establishing of the drain, as hereinbefore provided, the board of drain commissioners shall without delay divide the line thereof into convenient divisions for construction, make diagrams of the same with specifications of the width of excavation at the bottom, the slope of the sides, and such other matters as may be necessary for



the proper construction of the drain, and set suitable stakes in such places as may be necessary to show the beginning and end of divisions and the number of the division and grade stakes to show the depth of cut at such intervals as may be necessary. Such board shall give at least ten days' notice of the time when and the place where they will meet parties for the purpose of letting contracts for such construction. Such notice shall be published in some newspaper of general circulation in the county and printed notices not less than five in number shall be posted at such points in each township or municipality interested in such drain as will be likely to secure the greatest publicity for such notice. Such notice shall also state that at the time and place of such letting of contracts the assessment of benefits will be subject to review, unless such assessment has already been reviewed, under the provisions of section 1451.

**§ 1455. Commissioners may defer letting of contract.** At the time and place appointed the board of drain commissioners shall proceed to hear all complaints relative to such assessments, unless a hearing has already been had under the provisions of section 1451, and correct and confirm the same. Such board shall then proceed to let contracts for the construction of the drain by divisions as it shall have divided the same, to the person who will do the work according to the specifications, for the lowest price and give adequate security for the performance of the same within such time as the contract shall specify. Such board may adjourn such letting in whole or in part and from time to time to such other time and place, to be by it at the time of such adjournment publicly announced, as shall to it seem proper and it may reserve the right to reject any and all bids. The parties who are to be assessed for the construction of such drain and who may be bidders for contracts thereon shall, if equal bidders with other parties, be preferred in the awarding of such contracts; provided, that contracts for the building of the bridges and culverts mentioned in section 1463 may be deferred, until the construction of the drain has reached such a stage of completion that the character of the bridges and culverts which will be needed can be determined. As soon as the character of such bridges and culverts can be determined such board shall cause plans and specifications of the bridges and culverts to be constructed in connection with such drain to be prepared and shall give at least ten days' notice of the time and place when and where it will meet parties for the purpose of letting contracts for such construction. Such notice shall be published in some newspaper of general circulation in the county. Such contracts shall be let to the lowest bidder as hereinbefore in this section provided.

**§ 1456. General duties of commissioners.** After the letting of such contracts or a major portion thereof such board shall make a computation of the cost of such drain which shall include all the expenses of locating and establishing the same, including the cost of right of way, the drain commissioners' fees, cost of survey, cost of building bridges and culverts, interest on all warrants issued or to be issued by the board of drain commissioners on account of the drain, accumulated or to accumulate prior to the time when the tax levied or to be levied to pay for the right of way or construction of the drain is collectible by law and all other expenses and the amount of the contracts and in case contracts shall not have been let for the construction of the whole of the drain or of the bridges and culverts, the board of drain commissioners shall estimate the cost of such unlet

portion and of the bridges and culverts predicating its estimate so far as may be upon the cost of those portions that have been let or upon similar work. The sum of all the costs and expenses incurred or to be incurred shall be the cost of the construction of the drain.

§ 14. c. 51, 1895.

**§ 1457. Lands benefited. Special tax.** The board of drain commissioners shall make a list showing the amount which each municipality and tract of land benefited by the drain for which the tax is levied is liable to pay on account of procuring the right of way or the construction of any drain, or both according to the per cent which by section 1452 it is required to fix and determine, a copy of which shall be served on the clerk or auditor of each municipality against which taxes are to be assessed. Such list shall thereupon be filed in the office of the county auditor of the county in which the municipalities and lands benefited by the drain are situated, and the auditor shall thereupon extend upon the tax lists as a special tax as provided by law the several amounts shown by the drain commissioners' list, specifying in such tax lists the particular drain for the construction or procurement of the right of way of which such special tax is assessed, which special tax shall be collected and enforced in the same manner as other taxes. When such special tax is for right of way the same shall when collected be paid by the county treasurer in court for the benefit of the owners of the right of way.

§ 15. c. 51, 1895.

**§ 1458. County treasurer shall collect drain tax.** The drain taxes shall be collected by the county treasurer and all moneys so collected shall be credited to the drain fund to which they belong and the county treasurer shall be the treasurer of such drain funds. Payment of all expenses and costs of locating and constructing any drain shall be made by the board of drain commissioners issuing warrants in such amounts and to such persons as by such board may be found due. All warrants drawn by such board in payment for the right of way or construction of any drain shall be payable from the proper drain fund and shall be receivable for the taxes levied for the right of way or construction of such drain by the treasurer. All such warrants after presentation to the county treasurer for payment, if not paid for want of funds, shall be registered by the county treasurer and thereafter shall bear interest at the rate of seven per cent per annum.

§ 16. c. 51, 1895.

**§ 1459. Additional assessment. When necessary.** In case the amount realized from the assessment made for right of way or for the construction of any drain shall not be sufficient to pay for such right of way or to complete such drain, and to pay fees and all incidental expenses, or in case an enlargement or deepening of such drain or an extension of the line thereof becomes necessary, a further assessment shall be made to meet the deficit or additional expense, and the amount thereof shall be levied and collected in the manner hereinbefore provided.

§ 17. c. 51, 1895.

**§ 1460. Extension of time to contractors.** The board of drain commissioners shall have power to grant a reasonable extension of time for the completion of any contract. When any contract shall not be finished within the time specified, or to which it may be extended, the board of drain commissioners may in its discretion at any time thereafter, re-let such unfinished portion or any part thereof, after not less than five days' notice thereof to the lowest responsible bidder and shall take security as before. The cost of completing such parts over and above the contract price, and the

expense of notices and re-letting shall be collected by the board of drain commissioners of the parties at first contracting; provided, that in no case shall the board of drain commissioners forfeit and annul a contract without five days' notice to the contractor, if found, and if not found, then by written notice left at his last place of residence, if known to be within the county.

§ 1461. **Extension of powers, when necessary.** The powers conferred by this chapter for establishing and constructing drains shall also extend to and include the deepening and widening of any drains which have heretofore been or may hereafter be constructed; also to straightening, clearing out and deepening the channels of creeks and streams and the construction, maintaining, remodeling and repairing of levees, dykes and barriers for the purpose of drainage and the board of drain commissioners may relocate or extend the line of any drain if the same is necessary to provide a suitable outlet and shall cause a survey thereof to be made, but no proceedings affecting the right of persons or property shall be had under this section, except upon the notice, hearing and award prescribed in this chapter for the construction of drains in the first instance. § 13, c. 51, 1895.

§ 1462. **Duty of railroad companies.** Drains may be laid along, within the limits of or across any public road, and when so laid out and constructed or when any road shall hereafter be constructed along or across any drain it shall be the duty of the board of county commissioners, or township supervisors, as the case may be, to keep the same open and free from all obstructions. A drain may be laid along any railroad when necessary, but not to the injury of such road, and when it shall be necessary to run a drain across a railroad it shall be the duty of such railroad company, when notified by the board of drain commissioners to do so, to make the necessary opening through said road and to build and keep in repair suitable culverts or bridges. § 19, c. 51, 1895.

§ 1463. **Construction of bridges and culverts.** When any drain crosses a highway the cost of constructing the necessary bridge or culvert shall be charged in the first instance as part of the cost of constructing such drain, after which such bridge or culvert shall be maintained as part of the highway. The board of drain commissioners shall construct such bridges or culverts over or in connection with each drain as may in its judgment be necessary to furnish a passage from one part to another of any farm or tract of land intersected by such drain and the cost of the construction thereof shall be charged as part of the cost of constructing such drain and such bridge or passageway shall be maintained under the authority of the board of county commissioners or township supervisors, as the case may be, and the necessary expense thereof shall be deemed a part of the cost of keeping such drain open and in repair. § 20, c. 51, 1895.

§ 1464. **Blind drains, how constructed.** Blind drains may be constructed by the use of drain tile or sewer pipe, when the nature of the ground will admit of so doing. When blind drains are constructed the entrance shall be protected from drift wood and other debris. § 21, c. 51, 1895.

§ 1465. **Legal drains shall be recorded.** All drains regularly established, opened or constructed under existing provisions of law shall be deemed legal drains and it shall be the duty of all boards of county commissioners, in cases where the records of any drain may not have been preserved, to see that such record is made in the best manner practicable in the office of the county auditor. § 22, c. 51, 1895.

§ 23, c. 51, 1895.     **§ 1466. Tax or assessment void, when.** The collection of no tax or assessment levied or ordered to be levied to pay for the location and construction of any drain laid out and constructed under this chapter shall be perpetually enjoined or declared absolutely void in consequence of any error of any officer or board in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any drain shall have been located and established, nor for want of proper conveyance or condemnation of the right of way, but the court in which any proceeding may hereafter be brought to reverse or to declare void the proceedings by which any drain has been located or established or to enjoin the tax levied to pay the labor and cost and expenses shall on application of either party appoint such person or persons to examine the premises, or to survey the same, or both, as may be deemed necessary; and the court shall on a final hearing make such order in the premises as shall be just and equitable, and may order such tax to remain on the tax lists for collection, or order the same to be relieved, or may perpetually enjoin the same, or any part thereof, or if the same shall have been paid under protest, shall order the whole or such part thereof as may be just and equitable to be refunded, the costs of said proceedings to be apportioned among the parties as justice may require.

§ 24, c. 51, 1895.     **§ 1467. Drain kept open and in repair. Cost of.** All drains that may have been constructed under any law of this state, or that may be constructed under the provisions of this chapter and situated in this state, shall, except as otherwise provided be under the charge of the board of county commissioners and their successors in office and be by them kept open and in repair. In all cases when any completed drain is or may be situated in more than one county the care of the portion thereof lying within any county is hereby assigned to the board of county commissioners of such county to be by it kept open and in repair. The cost of such keeping open and in repair shall in all cases be assessed, levied and collected in the same manner as is provided in this chapter for the construction of drains in the first instance, and in cases when no assessment of benefits shall have been made, the board of commissioners having charge of or to whose care such drain may be assigned shall make such assessment.

§ 25, c. 51, 1895.     **§ 1468. Rules and regulations.** The board of county commissioners of any county may make rules and regulations on the subject of drainage within such county, as it may deem proper, not inconsistent with the provisions of this chapter and especially with regard to clearing out and keeping clear the channels of streams and the construction and maintenance of dams thereupon, with reference to their capacity for drainage and may require of the owners of such dams reasonable service in cleaning and keeping such streams clear as a consideration for the right to erect dams thereupon.

§ 26, c. 51, 1895.     **§ 1469. Liability of drain commissioner.** Each board of drain commissioners shall make a report to the board of county commissioners of all drains begun, in process of construction or finished and shall also render a full account of all moneys which shall come into its hands; and every drain commissioner shall be liable on his bond for any misapplication of money coming into his hands as such commissioner. The report required by this section shall include an itemized statement of all expenses and warrants drawn on account of each and every drain.

**§ 1470. Compensation for commissioners and publishers.** § 27, c. 51, 1895.  
 Drain commissioners shall receive for their services such amount, not less than two nor exceeding three dollars per day, for the time actually spent by them in performing the duties of their offices as may be fixed by the board of county commissioners. Publishers of newspapers shall receive for publishing legal notices and furnishing evidence of such publication the fees prescribed by law for legal advertisements.

**§ 1471. Penalty.** § 28, c. 51, 1895.  
 If any person shall willfully and maliciously remove any surveyor's stake set along the line of any drain laid out under the provisions of this chapter, or obstruct or injure any such drain, he shall for each and every such offense be subject to a penalty not exceeding ten dollars together with such sum as will be required to repair such damage and costs of suit, which penalty may be recovered in an action by the board of drain commissioners or county commissioners as the case may be. Whenever the amount of any recovery shall be collected it shall be deposited with the county treasurer to the credit of the proper drain fund.

**§ 1472. State and county officers not eligible.** § 29, c. 51, 1895.  
 No person holding any state or county office shall be eligible to the office of drain commissioner, and any drain commissioner accepting any state or county office shall thereupon be considered as having vacated the office of drain commissioner.

**§ 1473. Power to administer oath.** § 30, c. 51, 1895.  
 Drain commissioners shall have power to administer any oath required in any proceeding had before them or in which they may be called to act officially.

**§ 1474. Bonds, when and how issued.** § 31, c. 51, 1895.  
 The board of county commissioners of any county in which any such drain is proposed to be located and constructed is authorized to issue bonds in such sums as may be necessary for the purpose of defraying the expenses incurred or to be incurred in obtaining the right of way or in locating and constructing any such drain, said word "expenses" to be construed to mean and to cover every item of cost of such drain from its inception to its completion as hereinbefore provided, which bonds shall be paid out of the revenues to be derived from taxes levied or to be levied and collected from that portion of the county found by the board of drain commissioners to be benefited thereby. Such bonds shall bear interest at a rate not exceeding seven per cent, and shall be payable not exceeding twenty years from the date thereof, and the said board shall provide sinking funds for the payment at maturity of each series of bonds issued and for the payment of the annual interest on the same. The bonds issued under the provisions of this chapter shall be signed by the chairman of the board of county commissioners of such county and countersigned by the county auditor who shall keep a record of the bonds issued under the provisions of this chapter. Such board shall have the power to negotiate such bonds at not less than the par value thereof as it may deem best for the interest of all persons interested in such drain. Such bonds shall contain a recital that the same are issued in accordance with the provisions and pursuant to the authority of this chapter and that they are to be paid out of sinking funds to be created as in this chapter provided. Whenever such bonds shall be issued the tax hereinbefore provided for shall not be collected all in one year, but shall be divided into as many parts as such bonds have years to run and one of such parts shall be extended upon the tax lists by the

county auditor against the proper parcels of land and property liable to taxation for that purpose in each and every year and collected in such year and such fund shall constitute the sinking fund provided by this section. The board of county commissioners shall in each year at the time of levying the taxes, levy upon the property liable to taxation on account of the location and construction of any drain a tax sufficient to pay the annual interest on any bonds which may have been issued for the purpose of locating and constructing the drain. Separate sinking funds shall be provided for each separate drain for the construction of which bonds shall be issued and no funds in any such sinking fund shall be applied to any other purpose than the payment of the bonds for the payment of which such fund was created. No county shall be liable for the payment of any bonds issued under the provisions of this chapter, but such bonds shall be paid only out of the sinking funds created as in this chapter provided.

CHAPTER 22.

POLICE OF THE STATE.

ARTICLE 1.—SUPPORT OF THE POOR.

§§ 1, 2, c. 33, Pol. C.     **§ 1475. County commissioners overseers of the poor.** The county commissioners of the several counties in this state shall be overseers of the poor within their respective counties and shall perform all the duties with reference to the poor that may be prescribed by law. Each board of county commissioners shall, in discharging the duties imposed by this chapter, be designated as overseers of the poor.

§ 3, c. 33, Pol. C. am'd.     **§ 1476. Suits in name of county.** In all suits or proceedings in favor of or against any such overseers of the poor, pertaining to or connected with the poor of their respective counties, the same shall be conducted by or against such county.

§ 4, c. 33, Pol. C.     **§ 1477. Each county shall relieve its poor.** Each county shall relieve and support all poor and indigent persons residing therein, whenever they shall be in need thereof, and the board of county commissioners may raise money for the support and employment of the poor in the manner provided in section 1491.

§ 5, c. 33, Pol. C. am'd.     **§ 1478. Residence acquired. Married women and children.** Residence may be acquired in any county so as to oblige such county to relieve and support the persons acquiring such residence, in case they are in need of relief, as follows:

1. The residence of a married woman follows that of her husband if he has any within the state, otherwise her own at the time of her marriage, and if she then had any residence it shall not be lost or suspended by the marriage; and in case the wife shall be removed to the place of her residence, and the husband shall need relief, he shall receive it in the place where his wife shall have her residence.

2. Legitimate children shall follow and have the residence of their father if he has any within the state, until they shall gain a residence of their own, but if the father has no residence they shall in like manner follow and have the residence of their mother if she has any.

3. Illegitimate children shall follow and have the residence of their mother at the time of their birth, if she then has any within the state; but neither legitimate nor illegitimate children shall gain a residence by birth in the place where they were born, unless their parent or parents had a residence therein at the time.

4. Each male person and each unmarried female over the age of twenty-one years, who shall have resided in any county in this state ninety days, shall thereby gain a residence in such county.

5. Each minor whose parents, and each married woman whose husband, has no residence in this state, who shall have resided ninety days in any county in this state, shall thereby gain a residence in such county.

6. Each minor who shall be bound as an apprentice to any person shall immediately upon such binding, if done in good faith, thereby gain a residence where his master has a residence.

7. Each residence when once legally acquired shall continue until it is lost or defeated by acquiring a new one in this state, or by voluntary absence from the county in which such residence had been obtained, for ninety days or more; and upon acquiring a new residence, or upon the happening of such voluntary absence all former residences shall be defeated and lost, and the provisions of this section shall apply to cases of residences begun to be acquired or lost or defeated, as well heretofore as hereafter.

**§ 1479. Overseers have care of the poor.** The overseers of the poor in each county shall have the oversight and care of all poor persons in their county so long as they remain a county charge, and shall see that they are properly relieved and taken care of in the manner provided by law. § 6, c. 33, Pol. C.

**§ 1480. Allowance for the support of poor persons.** The board of county commissioners may in its discretion allow and pay to poor persons who may become chargeable as paupers, and who are of mature years and sound mind, and who from their general character will probably be benefited thereby, and also the parents of idiots and of children otherwise helpless, requiring the attention of their parents, and who are unable to provide for such children themselves, such annual allowance as will not exceed the charge of their maintenance in the ordinary mode, such board taking the usual amount of charges in like cases as the rule for making such allowance. § 8, c. 83, Pol. C.

**§ 1481. Complaint in behalf of the poor. Duty of overseers.** It shall be the duty of the overseers of the poor, on any complaint made to them in behalf of the poor, to examine into the ground of such complaint, and if in their judgment the poor have not been sufficiently provided with the common necessaries of life, or have in any respect been illtreated by the person under whose charge they have been placed, to withhold any part of the compensation allowed to the person keeping them, as such overseers may deem reasonable and proper, and remove such poor and place them in the care of some other person. § 9, c. 33, Pol. C.

**§ 1482. Poor book to be kept.** The overseers of the poor shall enter in the poor book of their respective counties the names of all poor persons in their county who are unable to care for themselves, and who are in their judgment entitled to the benefits of the provisions of this article, together with the date of such entry. § 10, c. 33, Pol. C.

**§ 1483. Appeal to district judge.** If any poor person shall suppose that he is entitled to the benefits of this article, and the over- § 11, c. 33, Pol. C.

seers of the poor of the county in which he resides shall refuse to give such person the benefit thereof upon application of such person the judge of the district court of the county or judicial subdivision may, if he thinks proper, direct such overseers to receive such person on the poor list on his application therefor.

§ 12, c.33, Pol.C. **§ 1484. When residence is uncertain.** If any one within the description of poor persons specified in this article shall be found in any county, and the overseers of the poor of such county shall be unable to ascertain and establish the last place of legal residence of such person, they may proceed in their discretion to provide for such person in the same manner as other persons are provided for.

§ 13, c.33, Pol.C.  
am'd. **§ 1485. Temporary relief for certain poor.** Whenever any person entitled to temporary relief as a pauper shall be in any county in which he has not a legal residence, the overseers of the poor thereof may, if the same is deemed advisable, grant such relief by placing him temporarily in the poor house of such county, if there is one; but if there is no poor house they may provide the same relief as is customary in other cases.

§ 14, c.33, Pol.C. **§ 1486. Justice of the peace may issue warrant of removal.** Upon complaint of any overseer of the poor, any justice of the peace may issue his warrant, directed to and to be executed by any constable or by any other person therein designated, to cause any poor person found in the county, likely to become a public charge, and having no legal residence therein, to be sent at the expense of the county to the place where such person belongs, if the same can be conveniently done; but if he cannot be removed, such person shall be relieved by such overseers whenever such relief is needed.

§ 15, c.33, Pol.C. **§ 1487. Overseers of the poor aggrieved by removal.** If the overseers of the poor of any county in this state, to which any pauper shall have been removed as above provided, shall feel themselves aggrieved by such order of removal, they may at any time within twenty days after such removal shall be known to them, appeal from the decision of the justice ordering such removal, to the district court of the county or judicial subdivision from whence the removal was ordered, such appeal to be taken, tried and determined and costs taxed as in other cases of appeal from the judgment of a justice of the peace, and the order of removal may be vacated or affirmed as the facts warrant.

§ 16, c.33, Pol.C.  
am'd. **§ 1488. Appeal heard, how.** Such appeal shall be heard at the term of court next after the same is filed therein, if in the opinion of the court reasonable notice of the appeal has been given to the opposite party; but if not thus given, the cause shall stand continued until the next term of the court.

§ 17, c.33, Pol.C.  
am'd. **§ 1489. When order of removal is defective.** If the order of removal is defective, the court shall permit the same to be amended without costs, and after such amendment is made the appeal shall be heard and determined as in other cases.

§ 18, c.33, Pol.C. **§ 1490. Removal. Duty of overseers of county to which removed.** If any person is removed by virtue of the provisions of this article from any county to another place within this state, by warrant or under the hand of any justice of the peace as hereinbefore provided, the overseers of the poor of the county to which such person is removed are required to receive such person if he has a legal residence in their county.



**§ 1491. Overseers to make return to county auditor.** § 19, c.33, Pol.C.  
 The overseers of the poor shall make return to the county auditor of am'd.  
 the sums of money required for the poor of their respective counties, which sum shall be paid in quarterly installments out of the county treasury upon the order of the board of county commissioners in the same manner as other claims against the county are paid.

**§ 1492. Compensation of overseers.** § 20, c.33, Pol.C.  
 The overseers of the poor shall be entitled to receive two dollars per day each for every day during which they shall be necessarily employed in the discharge of their duties as such, to be allowed by the board of county commissioners.

**§ 1493. Overseers shall submit accounts, when.** § 21, c.33, Pol.C.  
 The overseers of the poor shall annually at the first session of the board of county commissioners in each year, submit their accounts and make a report of their proceedings for the past year, which report shall be presented to the county auditor at least one day prior to the meeting of such board, and the board may allow such accounts so presented, and draw on the county treasurer therefor, whose duty it shall be to pay the same out of any money in the county treasury not otherwise appropriated.

**§ 1494. Nonresident sick or dying within county.** § 22, c.33, Pol.C.  
 It shall be the duty of the overseers of the poor, on complaint made to them that any person not a resident of their county is lying sick therein or in distress, without friends or money, so that he is likely to suffer, to examine into the case of such person and grant such temporary relief as the nature of the case may require; and if any person shall die within any county, who shall not have money or means necessary to defray his funeral expenses, it shall be the duty of the overseers of the poor of such county, to employ some person to provide for and superintend the burial of such deceased person, and the necessary and reasonable expenses thereof shall be paid by the county treasurer upon the order of the board of county commissioners.

ARTICLE 2. — ASYLUM AND POOR FARM.

**§ 1495. Special election for the purchase of an asylum for the poor.** § 23, c.33, Pol.C.  
 It shall be lawful for the board of county commissioners in the several counties of this state, after having submitted the question to the legal voters of the county by calling a special election for that purpose whenever the commissioners may deem it advisable, and if at such election a majority of the legal voters shall vote in favor of the proposition, to purchase a tract of land in the name of the county and build, establish and organize thereon an asylum for the poor, and to employ some humane and responsible person, a resident of the county, to take charge of the same upon such terms and under such restrictions as the board shall consider most advantageous for the interests of the county, who shall be called superintendent of the county asylum; and it shall be lawful for the county commissioners of two or more counties, after having been so authorized by a majority of the legal voters of their respective counties, in the manner prescribed in this section, jointly to purchase lands and erect asylums and to continue such joint ownership during their pleasure; and to do such other things necessary and proper for the relief of the poor within such counties as might be done by a county acting alone.

§ 24, c.33, Pol.C.     **§ 1496. Duty of superintendent of asylum.** The superintendent shall receive into his care and custody all persons who may become a county charge as paupers, and take such measures for the employment and support of such paupers, and perform such other duties as the board of county commissioners shall from time to time order and direct, consistent with the laws of this state.

§ 25, c.33, Pol.C.     **§ 1497. Shall appoint a physician.** The board of county commissioners shall annually appoint a well qualified physician to attend the county asylum, and allow him a reasonable compensation for his services.

§ 26, c.33, Pol.C.     **§ 1498. May bind out poor children.** The overseers of the poor shall bind out such poor children as fall under their care and charge from time to time; and the overseer shall see that the children so bound out are properly treated by the persons to whom they are bound, and take legal means of redress in case of maltreatment.

§ 27, c.33, Pol.C.  
am'd.     **§ 1499. Assessment of tax for purchase of poor farm.** To raise the sum necessary for the purchase of land and the erection and furnishing of buildings for such asylum, the board of county commissioners in the several counties shall have power to assess a tax on property liable to taxation for raising a county revenue, not exceeding five hundred dollars unless the amount of taxes to be assessed shall be submitted to a vote of the people at the special election held pursuant to section 1495, and a majority of all the votes cast at such election is in favor of such assessment.

§ 28, c.33, Pol.C.     **§ 1500. All poor shall go to the asylum, when.** As soon as the necessary provisions are made by the erection of suitable buildings, the board shall order and direct that all persons who have become permanent charges as paupers in the county be removed to such asylum, and shall take such measures for the employment and support of such paupers as they may deem advisable, and thereafter the overseers of the poor shall from time to time, as persons may become permanent charges as paupers, have such persons removed to such asylum.

§ 29, c.33, Pol.C.     **§ 1501. Superintendent to give bond.** The superintendent shall execute a bond to the state in the sum of five hundred dollars with two or more sureties to be approved by the board, conditioned for the faithful discharge of his duties, and he shall make to such board at the first and third sessions in each year a detailed report in writing of the time and manner of the admission of each pauper, his health and fitness to labor, the results of his industry, and the expenses incurred; the members of such board shall in person annually inspect such asylum with regard to its fitness in all respects for the objects of its establishment.

§ 30, c.33, Pol.C.     **§ 1502. Children shall be educated, when.** Whenever it shall be necessary and practicable, poor children of the asylum who cannot be bound out or whom it may not be expedient to bind out as apprentices, shall be educated thereat.

§ 31, c.33, Pol.C.  
am'd.     **§ 1503. Superintendence of the education of children.** The superintendent shall superintend and direct the education of such poor children and send them to any common school within the county, during the continuance of its session.

§ 32, c.33, Pol.C.  
am'd.     **§ 1504. Discontinuance of asylum.** Such asylum or poor farm may be discontinued by such board, and the property real and personal sold, leased or otherwise disposed of or applied in such manner as may be best for the interests of the county.

**§ 1505. Board of county commissioners may levy poor tax.** The board of county commissioners may, if it deems it expedient, annually, at its session at which the county tax is ordered to be levied and assessed, levy and assess a tax for the support of the poor of its county. Such tax shall be collected by the county treasurer. § 33, c.33, Pol.C.

**§ 1506. Board appoints visitors.** The board of county commissioners may in its discretion appoint a board of visitors annually, consisting of three residents of the county, to visit at least once in each year the asylum in such county, and report to the commissioners its condition, and the treatment, management and condition of the inmates thereof. § 35, c.33, Pol.C.

**§ 1507. Compensation.** Such visitors shall receive such compensation as the board shall adjudge reasonable. § 36, c.33, Pol.C.

**§ 1508. Sending pauper out of county is unlawful.** No person shall either directly or indirectly send or be instrumental in sending or causing to be sent out of the county where such person properly belongs, any pauper or person who is or is likely to become an object of public charity, into any other county of this state, except in the manner provided for in this article. § 37, c.33, Pol.C.

**§ 1509. Penalty for violation of last section.** Any person who shall violate the provisions of the preceding section is guilty of a misdemeanor, and shall be liable to a fine of not exceeding one hundred dollars, or to imprisonment in the county jail not exceeding one year, or to both. § 38, c.33, Pol.C.

**§ 1510. Penalty for bringing pauper into the county.** Every person who shall bring into and leave any pauper in any county wherein such pauper has not a lawful residence, knowing such person to be a pauper, shall forfeit and pay the sum of one hundred dollars for each offense, to be sued for and recovered by and for the use of such county, by an action in the name of the county, and no property shall be exempt from seizure and sale in such cases; and it shall be the duty of the board of county commissioners to institute suits for all violations of this section; and any such sum when collected shall be paid into the county treasury for the use of the county. § 39, c.33, Pol.C.

### ARTICLE 3.—FOR RELIEF OF NEDDY SETTLERS.

**§ 1511. Appropriation for.** There is hereby appropriated annually out of any funds in the state treasury not otherwise appropriated, the sum of seven thousand dollars, or so much thereof as may be necessary, to be expended by the commissioner of agriculture and labor by and with the advice and consent of the governor, for the relief of the needy settlers in such counties, as by reason of their having reached their constitutional limit of indebtedness, may be unable to provide the necessaries of life needed by destitute residents of such county. § 1, c. 24, 1891.

**§ 1512. Accounts, how audited.** The state auditor is authorized and directed to audit and allow the accounts of such commissioner of agriculture and labor when approved by the governor, secretary of state and attorney general, and he shall issue his warrants on the state treasurer for the amount of such accounts. § 2, c. 24, 1891. am'd.

ARTICLE 4.—CARE OF THE INSANE.

§ 16, c. 23, 1879.  
am'd.      **§ 1513. Appointment of commissioners of insanity.** In each organized county of this state there shall be a board of commissioners consisting of three persons, to be styled "commissioners of insanity," two of whom shall constitute a quorum. The county judge shall be a member of such board and its chairman. The other two members shall be appointed by the board of county commissioners, one of whom shall be a reputable practicing physician, and the other a reputable practicing attorney; and such appointments shall be made from persons residing as near as may be to the county seat. Such commissioners shall be appointed for the term of two years and until their successors are appointed and qualified. The appointment of successors can be made at any time within three months prior to the expiration of the term of the incumbents. In case of the temporary absence of such commissioners or their inability to act, the county judge shall call to his aid a reputable practicing physician or attorney, who after qualifying as in other cases, may act in the same capacity. The record in such cases must show the fact of such absence.

§ 17, c. 23, 1879.  
am'd.      **§ 1514. Oath of commissioners. Organization and meetings.** Before entering upon the duties of their office the persons so appointed shall take and subscribe an oath to support the constitution of the United States and the constitution of this state, and faithfully to discharge their duties as such commissioners according to law, which oath shall be filed with the county judge who shall enter a memorandum thereof on the records. On organizing they shall choose one of their number as clerk of such board. They shall hold their meetings at the office of the county judge unless for good reasons they shall fix some other place. If they deem it necessary or advisable, they may hold sessions at such regular times as they may fix. They shall also meet on notice from the chairman of the board.

§ 18, c. 23, 1879.      **§ 1515. Duties of chairman. Books to be kept. Notices.** The chairman of the board shall sign and issue all notices, appointments, warrants, subpoenas and other process required to be given or issued by the commissioners, affixing thereto his official seal as county judge. He shall file and carefully preserve in his office all papers connected with any inquest by the commissioners, and properly belonging to his office, with notices, reports and other communications. He shall keep separate books in which to record the proceedings of the board, and his entries shall be sufficiently full to show, with the papers filed, a complete record of the findings, orders and transactions. The notices, reports and communications herein required to be given or made, may be sent by mail unless otherwise provided, and the fact and date of such sending and their reception must be noted on the proper record.

§ 19, c. 23, 1879.      **§ 1516. Duties and powers of commissioners.** Such commissioners shall have cognizance of all applications for admission to the hospital or for the safe-keeping otherwise of insane persons within their county, except in cases otherwise specially provided for. They shall have power to issue subpoenas and compel obedience thereto, to administer oaths, and do any act necessary and proper in the premises.

§ 20, c. 23, 1879.      **§ 1517. Applications for admission to hospitals.** Applications for admission to the hospital must be made in writing in the nature of an information verified by affidavit. Such information must allege that the person in whose behalf the application is made

is believed by the informant to be insane and a fit subject for custody and treatment in the hospital for the insane; that such person is found in the county and has a legal residence therein, if such is known to be the fact; and if such residence is not in the county, where it is, if known, or where it is believed to be, if the informant is advised on the subject.

**§ 1518. Investigation by commissioners as to the alleged insanity.** § 21. c. 23, 1879. On the filing of an information as above provided, the commissioners shall at once investigate the grounds of such information. For this purpose they may require that the person for whom such admission is sought be brought before them, and that the examination be had in his presence, and they may issue their warrant therefor and provide for the suitable custody of such person until their investigation is concluded. Such warrant may be executed by the sheriff or any constable of the county, or if they shall be of opinion from such preliminary inquiries as they may make, and in making which they shall take the testimony of the informant if they deem it necessary or desirable, and of other witnesses if offered, that such course would probably be injurious to such person or attended with no advantages, they may dispense with such presence. In their examination they shall hear testimony for and against such application, if offered. Any citizen of the county or any relative of the person alleged to be insane, may appear and resist the application, and the parties may appear by counsel if they elect. The commissioners, whether they decide to dispense with the presence before them of such person or not, shall appoint some regular practicing physician of the county to visit such person and make a personal examination touching the truth of the allegations in the information, and touching the actual condition of such person, and forthwith report to them thereon. Such physician may or may not be of their own number, and the physician so appointed and acting shall certify under his hand that he has, in pursuance of his appointment, made a careful personal examination as required, and that on such examination he finds the person in question insane, if such is the fact, and if otherwise, not insane; and in connection with his examination such physician shall endeavor to obtain from the relatives of the person in question, or from others who know the facts, correct answers, as far as may be, to the interrogatories hereinafter required to be propounded in such cases, which interrogatories and answers shall be attached to his certificate.

**§ 1519. How patient shall be sent to hospital.** § 22. c. 23, 1879. On the return of the physician's certificate, the commissioners shall as soon as practicable, conclude their investigations, and having done so they shall find whether the person alleged to be insane is insane; whether, if insane, a fit subject for treatment and custody in the hospital; whether the legal residence of such person is in their county, and if not in their county, where it is, if ascertained. If they find such person is not insane, they shall order his discharge, if in custody. If they find such person insane, and a fit subject for treatment and custody in the hospital, they shall forthwith issue their warrant and a duplicate thereof, stating such finding, with the residence of the person, if ascertained; and if not ascertained, their information, if any, in regard thereto, authorizing the superintendent of the hospital to receive and keep such person as a patient therein. Such warrant and duplicate with the finding and certificate of the phy-

sician shall be delivered to the sheriff of the county, who shall execute the same by conveying such person to the hospital and delivering him with such duplicate and physician's certificate and finding to the superintendent thereof. The superintendent over his official signature shall acknowledge such delivery on the original warrant, which the sheriff shall return to the county judge with his fees and expenses indorsed thereon. If neither the sheriff nor his deputy is at hand, or if both are otherwise engaged, the commissioners may appoint some other suitable person to execute the warrant in his stead, who shall take and subscribe an oath faithfully to discharge his duty, and shall be entitled to the same fees as the sheriff. The sheriff or any other person so appointed may take to his aid such assistance as he may need to execute such warrant; but no female shall thus be taken to the hospital without the attendance of some other female, or some relative of such person. The superintendent in his acknowledgment of delivery must state whether there was any such person in attendance, and give the name, if any. If any relative or intimate friend of the patient, who is a suitable person, shall so request, he shall have the privilege of taking and executing such warrant in preference to the sheriff or any other person, and without taking such oath, and for so doing he shall be entitled to his necessary expenses, but no fees.

§ 25, c. 23, 1879.

**§ 1520. Disposition of insane person when accommodations of hospital are insufficient.** If in the case of any persons found to be insane and fit subjects for custody and treatment in the hospital as above provided, it shall be shown to the satisfaction of the commissioners that they cannot at once be admitted therein, and they cannot with safety be allowed to go at liberty, the commissioners shall require that such patients shall be suitably provided for otherwise until such admission can be had, or until the occasion therefor no longer exists. Such patients may be cared for either as public or private patients. Those shall be treated as private patients whose relatives or friends will obligate themselves to take care of and provide for them without public charge. In the case of any one treated as a private patient, the commissioners shall appoint some suitable person a special custodian, who shall have authority and whose duty it shall be in all suitable ways to restrain, protect and care for such patient in such manner as best to secure his safety and comfort, and in such manner as best to protect the persons and property of others. In the case of public patients the commissioners shall require that they be in like manner restrained, protected and cared for by the overseers of the poor, at the expense of the county, and they may accordingly issue their warrants to such overseers of the poor, who shall forthwith comply with the same. If there is no poor house for the reception of such patients, or if no more suitable place can be found, they may be confined in the county jail in the charge of the sheriff, or such commissioners in their discretion, may require that such persons be taken to the asylum of any state that may be designated by the governor, who is hereby authorized and empowered to make the best terms he can with the authorities of any asylum in any state for the admission of such patients.

§ 26, c. 23, 1879.

**§ 1521. Insane persons cared for by county.** On application to the commissioners, on behalf of persons alleged to be insane and whose admission to the hospital is not sought, made substantially in the manner above prescribed and asking that provision be made

for their care as insane, either public or private within the county, and on proof of their insanity and need of care as above provided, the commissioners may provide for their care, protection and restraint as in other cases.

**§ 1522. Commissioners to provide for insane persons suffering for want of proper care.** § 27, c. 23, 1879. On information laid before the commissioners of any county that a certain insane person in the county is suffering for want of proper care, they shall forthwith inquire into the matter, and if they find the information well founded they shall make all needful provision for the care of such person as provided in other cases.

**§ 1523. Insane not to be restrained of liberty except by proper authority.** § 28, c. 23, 1879. No person supposed to be insane shall be restrained of his liberty by any other person otherwise than in pursuance of authority obtained as herein required, excepting to such extent and for such brief period as may be necessary for the safety of persons and property until such authority can be obtained.

**§ 1524. Penalty for cruelty to insane.** § 29, c. 23, 1879. Any person having the care of an insane person, and restraining such person, either with or without authority, who shall treat such person with wanton severity, harshness or cruelty, or shall in any way abuse such person, shall be guilty of a misdemeanor, besides being liable to an action for damages.

**§ 1525. Transfer of insane under county care.** § 30, c. 23, 1879. Insane persons who shall have been under care either as public or private patients, outside of the hospital, by authority of the commissioners of any county, may on application be transferred to the hospital whenever they can be admitted thereto, on the warrant of such commissioners. Such admission may be had without another inquest at any time within six months after the inquest already had, unless the commissioners shall deem a further inquest advisable.

**§ 1526. Questions to be answered on application for admission to hospital.** § 31, c. 23, 1879. In each case of application for admission to the hospital, correct answers to the following interrogatories, so far as they can be obtained, shall accompany the physician's certificate; and if on further examination, after the answers are stated, any of them are found to be erroneous, the commissioners shall cause them to be corrected:

1. What is the patient's name? Married or single? If any children, how many? Age of youngest child, and age of patient?
2. Where was the patient born?
3. Where is his place of residence?
4. What has been the patient's occupation?
5. Is this the first attack? If not, when did others occur and what was their duration?
6. When were the first symptoms of this attack manifested, and in what way?
7. Does the disease appear to be increasing, decreasing, or stationary?
8. Is the disease variable, and are there rational intervals? If so, do they occur at regular periods?
9. On what subject or in what way is derangement now manifested? State fully.
10. Has the patient shown any disposition to injure others?

11. Has suicide ever been attempted? If so, in what way? Is the propensity now active?

12. Is there a disposition to filthy habits, destruction of clothing, breaking glass, etc?

13. What relatives, including grandparents and cousins, have been insane?

14. Did the patient manifest any peculiarities of temper, habits, disposition or pursuits, before becoming insane? Any predominant passion, religious impressions, etc?

15. Has the patient been subject to any bodily disease, epilepsy, suppressed eruptions, discharge of sores, or ever had an injury of the head?

16. Was the patient ever addicted to intemperance in any form?

17. Has restraint or confinement been employed? If so, what kind and how long?

18. What is supposed to be the cause of the disease?

19. What treatment has been pursued for the relief of the patient? Mention particulars and the effect.

20. State any other matters supposed to have any bearing on the case.

§ 33, c. 23, 1879.

**§ 1527. Proceedings for release of persons alleged not to be insane.** On a statement in writing verified by affidavit, addressed to the county judge of the county in which the hospital is situated, or of the county in which any person confined in the hospital has his residence, alleging that such person is not insane and is unjustly deprived of his liberty, such judge shall appoint a commission of not more than three persons in his discretion, to inquire into the merits of the case, one of whom shall be a physician; and if two or more are appointed, one shall be an attorney. Without first summoning the person to meet them, they shall proceed to the hospital and have a personal interview with such person, so managed as to prevent him, if possible, from suspecting its object; and they shall make any inquiries and examinations they may deem necessary and proper of the officers and records of the hospital, touching the merits of the case. If they shall deem it prudent and advisable, they may disclose to the person the object of their visit, and in the presence of such person make further investigation of the matter. They shall forthwith report to such county judge the result of their examination and inquiries. Such report shall be accompanied by a statement of the facts and signed by the superintendent. If on such report and statement and hearing of the testimony, if any is offered, the county judge shall find the person sane, he shall order his discharge. If he shall find him insane he shall authorize his continued detention. The finding and order of such judge with the report and other papers, shall be filed in his office and entered on his records, and he shall forthwith notify the superintendent of his findings and order and the superintendent shall carry out such order. The commissioners appointed as provided in this section shall be entitled to their necessary expenses, and a reasonable compensation to be allowed by such judge and paid by the state, out of any funds not otherwise appropriated; provided, that the applicant shall pay the same if the judge shall find that such application was made without probable grounds, and shall so order.

§ 34, c. 23, 1879.

**§ 1528. Same. Not to be repeated oftener than once in six months.** The commission so provided for shall not be appointed



oftener than once in six months for the same person, nor shall such commission be appointed for any patient within six months of the time of his admission.

§ 1529. **Insane persons entitled to habeas corpus.** All persons confined as insane shall be entitled to the benefit of the writ of habeas corpus, and the question of insanity shall be decided at the hearing, and if the judge or court shall decide that the person is insane, such decision shall be no bar to the issuing of the writ a second time, whenever it shall be alleged that such person shall have been restored to reason. § 35, c. 23, 1879.

§ 1530. **Salaries and fees, how and by whom paid.** The commissioners of insanity shall each be allowed the sum of two dollars per day for the time actually employed in the duties of their office. The county judge, in addition to what he is entitled to as commissioner of insanity, shall be allowed one-half as much more for making the required record entries in all cases of inquest, and of meetings of the board for any purpose, and for the filing of any papers required to be filed. He shall also be allowed twenty-five cents for such notice or process given or issued under seal as herein required. The examining physician shall be entitled to five dollars for each case examined, and mileage at the rate of ten cents per mile each way. The sheriff shall be allowed for services other than conveying a patient to the hospital and returning therefrom, the same fees as for like services in other cases. Witnesses shall be entitled to the same fees as witnesses in the district court. The compensation and expenses provided for above shall be allowed and paid out of the county treasury in the usual manner, except those of the sheriff, which shall be paid out of the state treasury in the usual manner. § 41, c. 23, 1879.  
§ 1, c. 58, 1885.

§ 1531. **Penalty for neglect of duty.** Any officer required to perform any act and any person accepting an appointment under the provisions of this article who willfully refuses or neglects to perform his duty as herein prescribed shall be guilty of a misdemeanor, besides being liable to an action for damages. § 42, c. 23, 1879.

§ 1532. **Terms "insane" and "idiot" defined.** The term "insane" as used in this article includes any species of insanity or mental derangement. The term "idiot" is restricted to persons supposed to be naturally without mind. No idiot shall be admitted into the hospital for the insane. § 45, c. 23, 1879.

#### ARTICLE 5. — POSTAL RIGHTS OF INSANE PERSONS.

§ 1533. **Postal rights, how secured.** Each inmate of the hospital for the insane shall be allowed to choose one individual to whom he may write when or whatever he desires, and over letters to or from such individual no censorship shall be exercised or allowed by any person and each inmate shall have the right to make a new choice of such individual every three months if he so desires; and it is the duty of the superintendent to furnish each inmate with suitable material for writing letters, sufficient for the writing at least of one letter a week if the same is requested, unless he is otherwise furnished with such materials; and all such letters shall be dropped by the writers thereof, accompanied by an attendant when necessary, into a post office box provided by the state at the hospital, and kept in some place of easy access to all patients. The attendant is required in all cases to see that each letter is directed to the patient's correspondent, § 1, c. 122, 1887.  
am'd.

and if it is not so directed it must be held subject to the superintendent's disposal; and the contents of these boxes shall be collected once every week by an authorized person from the post office department and by him placed in the hands of the United States mail for delivery.

§ 2, c. 122, 1887.

**§ 1534. Duty of superintendent of hospital.** It is the duty of the superintendent to keep registered and posted in some public place at the hospital a true copy of the names of each individual chosen as the inmate's correspondent, and by whom chosen; and to inform each of the individuals so chosen of the name of the person choosing him. The superintendent shall request each person so chosen to write his name on the outside of the envelope of each letter written to the inmate; and all letters bearing the individual writer's name on the outside shall be delivered, or caused to be delivered, by the superintendent to the inmate to whom directed without being opened, unless there is reason to believe the letter contains some foreign substance which might be used for medication, in which case the letter shall be opened in the presence of a competent witness and the substance if any shall be delivered to the superintendent.

§§ 3, 4, c. 122, 1887, am'd.

**§ 1535. Penalty for violation.** Any person refusing or neglecting to comply with, or willfully or knowingly violating any of the provisions of this article, shall be guilty of a misdemeanor and be ineligible to any office in the hospital afterwards. A printed copy of this article shall be framed and kept posted in each ward of the hospital.

ARTICLE 6. — DOMESTIC ANIMALS.

MARKS AND BRANDS.

§ 1, c. 40, 1891.

**§ 1536. Office for recording brands.** A general office for recording marks, brands and trade-marks shall be maintained at the seat of government, and the duties thereof shall be performed by the secretary of state. The office of the register of deeds of each county shall be an auxiliary to said office, and the duties thereof shall be performed by the register of deeds.

§ 2, c. 40, 1891, am'd.

**§ 1537. Brands, how obtained and recorded.** Whenever any person desires the exclusive use of any mark or brand, or trade-mark, he may make application therefor to the secretary of state setting forth a description of the mark, brand or trade-mark of which he desires the exclusive use, accompanying the same with a facsimile thereof and stating for what the same is to be used and the place or position it is to occupy, and it shall be the duty of the secretary to record such mark, brand or trade-mark, with a description of the place or position such mark or brand shall occupy on the animal, consulting always the choice and convenience of the applicant therefor, so far as may be, without conflicting or interfering with any previously recorded mark or brand.

§ 3, c. 40, 1891.

**§ 1538. Secretary of state must record brands.** The secretary of state shall keep a record of all marks, brands and trade-marks showing the names and residences of the person owning the same, together with a description and facsimile of such mark, brand or trade-mark, and in case of live stock the range occupied by such stock, as near as may be, which record shall be open to the inspection of any person interested, and he shall deliver to the owner of such mark, brand or trade-mark a certificate thereof, which certificate shall be deemed evidence of ownership, for which he shall charge and col-

lect a fee of one dollar. Such certificate shall also be recorded in the office of the register of deeds of the county in which such owner resides, or in the case of nonresident owners, the county in which the person having such stock in charge, resides, or where such stock may be situated, and may demand and receive a fee of one dollar.

§ 1539. **Duty of register of deeds.** The register of deeds may receive and forward to the secretary of state all applications for recording marks, brands and trade-marks, and shall collect the fee therefor, which fee shall be forwarded with the application to the secretary of state, but such certificate shall not be recorded by the register of deeds until it has been recorded by the secretary of state. The register of deeds shall furnish to the owner of all marks, brands or trade-marks a certificate showing the record thereof in his office. § 4, c. 40, 1891.

§ 1540. **Brands must be vented.** It shall be the duty of all persons who sell live stock of any kind to another to vent their brand on the part of the animal which the purchaser may determine; provided, that such vent brand shall be upon the same side of the animal as the original, either by inverting the original brand, or by a vent brand prepared for that purpose. Such vent brand shall be not less than one-half the size of the original brand, and shall be of the type of the original brand, and such venting as above provided shall be prima facie evidence of the sale or transfer of such stock. § 6, c. 40, 1891.

§ 1541. **When similar brands may be recorded.** The secretary of state shall refuse to receive for record any brand, which, being the same as any previously recorded, shall have added thereto any or either of the following: A bar, a circle, a half circle, a quarter circle, a diamond or a half diamond; provided, that a similar device, figure or letter, but placed on a different part of the animal, may be so received and recorded. § 7, c. 40, 1891.

§ 1542. **Who have a right to record brands.** All persons who have heretofore recorded any mark, brand or trade-mark in any county of this state, shall have the prior right to the exclusive use of such mark, brand or trade-mark; provided, that where two or more of such marks or brands conflict with each other, the one first recorded shall have priority; provided, further, that all stock brands recorded in the office of the secretary of state prior to the first day of December, 1891, under the provisions of chapter 37 of the laws of 1890 shall be in no wise invalidated by any of the provisions of this article. § 9, c. 40, 1891.

§ 1543. **How to obtain exclusive brand.** Any person desiring to secure within this state the exclusive use of any name, mark, brand, print, designation or description for any article of manufacture or trade or for any mill, hotel property, machine shop or other business, shall deliver or cause to be delivered to the secretary of state a particular description or facsimile of such mark, brand, name, print, designation or description as he desires to use, and if there is not an application already filed for the same or a similar mark, brand, name, print, designation or description, he shall immediately record the same in a book to be provided and kept for that purpose, which book shall be at all times subject to public inspection and examination, and after the same shall have been recorded as herein provided, the person causing the same to be recorded shall have the exclusive right to the use thereof; provided, that nothing herein contained shall be construed to authorize the use of figures, letters or Roman numerals. § 10, c. 40, 1891.

## HERDING AND DRIVING.

- § 1. c. 60, 1881.    **§ 1544. Stock grower and drover defined.** Each person who shall keep neat cattle, horses, mules, sheep, swine or goats for their growth or increase within the state, shall be deemed a stock grower. Any person who shall drive or bring live stock into or through this state shall be deemed a stock drover.
- § 5. c. 60, 1881.  
am'd.    **§ 1545. Driving stock and trespassing.** Any person owning or having charge of any cattle, horses, swine or sheep, who shall drive the same into or through any county of which the owner is not a resident or land owner or stock grower, and when the land in such county is already occupied by settlers on ranches, it shall be the duty of such owner or person in charge of such horses, cattle, swine or sheep to prevent the same from mixing with the cattle, horses, swine or sheep belonging to actual settlers, and also to prevent such animals from trespassing on such land as may be the property of an actual settler or may be held by him under a homestead or leasehold right, and used by him for the grazing of animals, growing hay or timber, or other agricultural purposes, or doing injury to the ditches made for irrigation of crops. If any owner or person in charge of any such animals shall willfully, carelessly or negligently injure any resident of the state by driving such animals from the public highways and herding the same on the lands occupied and improved by settlers in possession of the same, it shall constitute a misdemeanor and shall be punished by a fine of not less than five dollars nor more than twenty-five dollars, at the discretion of the court, and render the owner or person in charge of such animals liable for such damages as may be done to the property of such settler.
- § 6. c. 60, 1881.  
am'd.    **§ 1546. Wrongful driving off of stock. Penalty.** When the stock of any person shall be driven off its range within the state, against his will, by the owners of any drove, and the same shall be found among such drove, every person engaged as drover of such drove shall be liable for damages to the person injured to the amount of the value of the animal for each head so driven off, together with all costs accruing in the trial of such cause, and the owner of the animals so driven off shall have a lien on such herd for the amount of all such damages and costs.
- § 7. c. 60, 1881.  
am'd.    **§ 1547. Duty of drover when stock of resident mixes with drove.** When the stock of any resident of the state shall mix with any drove of animals, it shall be the duty of any drover or person in charge of such drove to cut out and separate such stock from such drove immediately. Each person, either owner or drover or otherwise connected with such drove, who neglects to comply with the provisions of this section shall be fined in a sum not exceeding one hundred dollars.
- § 8. c. 60, 1881.    **§ 1548. Concerning skinned dead animals.** It shall be unlawful for any person other than the owner, his agent or employee, to skin or remove from the carcass, the skin, hide or pelt of any neat cattle, swine or sheep found dead, except when such stock is killed by railroad trains, in which case the employees of such railroad may remove the hides from stock so killed.
- § 1. c. 89, 1890.  
am'd.    **§ 1549. When lawful for stock to run at large.** It shall be lawful for cattle, horses, mules, ponies and sheep to run at large from the first day of November until the first day of April each year,

except within the corporate limits of any city or village; provided, that no stallion or vicious bull or any other animal known to be vicious, shall be allowed to run at large at any time; but nothing in this code shall be construed to repeal any special act establishing a fence law for any county in this state.

#### HERD LAW.

**§ 1550. County commissioners shall order an election.** § 1. c. 69, 1895.  
**How conducted.** The board of county commissioners of any county shall, whenever it shall be presented with a petition signed by one-third of the qualified electors of said county, asking that the provisions of chapter 42 of the code of civil procedure be abolished therein, order an election to be held, at which election the qualified electors of such county shall vote upon the question of abolishing the provisions of chapter 42 of the code of civil procedure in such county. Such election shall be in all respects conducted as general elections are conducted, and the order of the board of county commissioners for such election shall be made at least sixty days before such election is held, and notice of such election shall be given in the same manner and for the same length of time as notices of general elections.

**§ 1551. Law, when abolished.** The ballots to be used at such election shall be in the following form: "For the herd law" and "against the herd law." In voting on the question, each voter must place to the left of the proposition he favors, the mark X. If a majority of the ballots cast at such election is against the herd law, the provisions of said chapter 42 shall be thereby abolished in such county. §§ 2,3. c. 69, 1895.

**§ 1552. When the proposition may be submitted again.** § 4. c. 69, 1895.  
 At any subsequent general election, but at no other time, after an election has been once held under the provisions hereof, the question of re-establishing the provisions of said chapter 42 within any county, having abolished the same, or of abolishing the provisions of said chapter 42 in any county which has once refused to abolish the same under the provisions of this chapter, may be again submitted by the board to a vote of the qualified electors thereof, to be voted upon in the same manner as hereinbefore provided for the first election. The result of any election held under the provisions hereof shall remain in force until changed at some subsequent election held hereunder.

**§ 1553. When fences shall be sufficient and lawful.** In any county in which an election has been held under the provisions hereof and in which the result of such election shall have been declared to be in favor of abolishing the provisions of said chapter 42, a fence constructed as hereinafter described shall be sufficient and lawful. § 5. c. 69, 1895.

**§ 1554. How fences shall be constructed.** The posts or other uprights of reasonable strength and firmness in position shall be not more than thirty-two feet distant from each other, with two suitable stays between posts, nearly equally dividing such space in three parts. Three strands of ordinary barbed fence wire shall be well stretched and firmly fastened to such posts, uprights and stays, with the upper strand not more than forty-eight nor less than forty-two inches above the general surface of the ground thereunder, and the lower strand not more than eighteen nor less than twelve inches

above the general surface of the ground, and the middle strand nearly equally dividing the space between the upper and lower strands; provided, that all corral fence exclusively for the purpose of inclosing stacks, if outside of any lawful inclosure, shall not be less than sixteen feet distant from such stacks so inclosed, shall be substantially built with posts not more than eight feet distant from each other, and with not less than five strands of barbed fence wire, and shall be not less than five feet high. Any other kind of a fence or barrier which is as effective for the purpose of a fence as that above prescribed is hereby declared sufficient and lawful.

§§ 8, 9, c. 69, 1895.

**§ 1555. Liability of owners of stock.** Any person owning or having in charge any horses, mules, cattle, sheep or goats, or any such animals, which shall breach or break through, over or under any lawful fence, not the property of the owner of such offending animal, shall be liable to the party having sustained injury by reason of such breaching or breaking, to be recovered in a civil action before any court of competent jurisdiction, and it shall be sufficient in any such action, that it was a lawful fence where the breach was made, and the proceedings shall be the same as in other civil actions, except as herein modified. Any person owning or having in charge in any county, adopting the provisions hereof as herein provided, any swine which shall trespass upon the lands or premises of another, including premises in towns, villages and cities, whether such lands or premises are fenced or not fenced, shall be liable to any party sustaining such injury for all damages he may sustain by reason of such trespassing.

§§ 10, 11, c. 69, 1895.

**§ 1556. Damages by trespassing animals.** The persons sustaining damages as aforesaid shall before commencing an action therefor, notify the owner or person having in charge such offending animals of such damages, and the probable amount thereof if known, and a resident of and within the county, and he may retain and keep in custody such offending animals until the damages so sustained and costs are paid, or until sufficient security is given for the same; provided, that the person so restraining such offending animals shall, without unnecessary delay, notify the owner or person in whose custody the same were at the time the trespass was committed of the seizure of such animals, if such owner or person is known to him to be within or to reside within the county. For serving such notice the person making the same shall be entitled to the same fees and mileage as are allowed a sheriff in serving a summons.

§ 12, c. 69, 1895.

**§ 1557. Damages a lien upon the animals.** Upon the trial of an action under the provisions hereof, the plaintiff shall prove the amount of damages sustained, and the amount of expense incurred for restraining and keeping the offending animals, if such have by him been restrained, and any judgment rendered for damages against the defendant shall be a lien upon the animals committing the damages, and they may be sold and the proceeds applied to the satisfaction of the judgment.

§ 13, c. 69, 1895.

**§ 1558. Service in case of unknown defendant.** If upon the trial it shall appear that the defendant is not the owner or person in charge of such offending animals, he shall be discharged, and the action may proceed against a defendant, whose name is unknown, and, if at the commencement of the action the plaintiff does not know the name of the owner or keeper of such offending animals, he may bring an action against a defendant unknown. In such case service

shall be made by publishing a copy of the summons, with a notice stating the nature of the action, in a newspaper, if there is one published in the county, and, if not, by posting copies of the summons and notice in three public places in the county, in either case at least ten days previous to the day of trial.

§ 1559. **Judgment and costs collected, how.** After judgment shall have been rendered against the defendant, unknown as aforesaid, the offending animals, or so many of them as may be necessary, shall be sold as in other civil actions, and after said judgment and costs have been satisfied, if there is any surplus of money, it shall be placed in the hands of the county treasurer, and if the defendant does not appear and call for the same within six months from the day of sale, it shall be paid into the school fund for the use of the public schools of the county. § 14, c. 69, 1895.

§ 1560. **Misdemeanor, when.** Taking or attempting to take, or advising or assisting in the taking from the possession of the person having them in charge, without the consent of such person, except by due course of law, any animals restrained and held by virtue of the provisions hereof, is declared to be a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed fifty dollars, or by imprisonment in the county jail not to exceed thirty days, or by both, at the discretion of the court. § 15, c. 69, 1895.

§ 1561. **Judgment of court final, when. Jury trial.** In all actions under and by virtue of the provisions hereof wherein the amount of damages claimed does not exceed twenty-five dollars, the judgment of the court having original jurisdiction thereof shall be final; provided, that either party to such action shall be entitled, upon demand therefor, to a jury trial. § 16, c. 69, 1895.

§ 1562. **Actions commenced. When barred.** No property shall be exempt from seizure and sale under execution upon a judgment obtained under and by virtue of the provisions hereof. No action shall be commenced under the provisions hereof after the expiration of six months from the date of the alleged damages. § 17, c. 69, 1895.

§ 1563. **Stock must be branded.** All droves of horses, mules, cattle or sheep which may hereafter be driven from any other state or territory of the United States, or any foreign country, into or through any county of this state, shall be plainly branded or marked with one uniform brand or mark. All such horses, mules and cattle shall be branded with one distinct ranch or road brand of the owner so as to show distinctly in such place as the owner may adopt. All such sheep shall be marked distinctly with such mark or device as may be sufficient to distinguish the same readily should they become intermingled with other flocks of sheep in this state. §§ 1-3, c. 50, 1895.

§ 1564. **Fine.** Any owner or person in charge of such drove of stock which may be driven into or through this state, who shall fail to comply with the provisions of the last section shall be fined in a sum not less than fifty nor more than three hundred dollars, together with costs of suit. § 4, c. 50, 1895.

§ 1565. **Duties of county auditor and sheriff.** It shall be the special duty of the county auditor, sheriff and any constable of each and every county of this state to enforce the provisions of the last two sections. § 5, c. 50, 1895.

## SHEEP HUSBANDRY.

**§ 1566. Bounty for killing wolves.** The county commissioners of each county shall, upon the petition of twenty-five stock raisers of such county, offer a bounty not to exceed three dollars and not less than one dollar for each wolf or coyote killed within the limits of their county.

**§ 1567. Claimant to make affidavit and produce scalp.** Before payment of such bounty the applicant therefor must subscribe and make oath before the county auditor of the county in which the wolf or coyote was killed, setting forth that the wolf or coyote was killed in such county, giving the date thereof, and by whom, and that the two ears of the scalp thereof which are produced before such county auditor are the ears of such wolf or coyote. No claim shall be allowed unless the applicant exhibits and furnishes to such county auditor at the time of making such affidavit, the two ears of the wolf or coyote killed, attached to such skin, which shall then and there in the presence of such county auditor be detached from such wolf or coyote skin.

**§ 1568. Auditor to retain affidavit. Destruction of scalp.** The county auditor shall retain such affidavit until the next regular meeting of the board of county commissioners, when the board shall audit the claim and order a warrant drawn upon the county treasurer for the bounty in favor of the person killing such wolf or coyote. The county treasurer is further required forthwith to destroy such ears by burning the same.

**§ 1569. When dog may be killed.** If any person shall discover any dog in the act of killing, wounding, or chasing sheep in this state, or shall discover any dog under such circumstances as satisfactorily to show that it has been recently engaged in killing or chasing sheep, such person is authorized immediately to pursue and kill such dog.

**§ 1570. Owner of dog liable.** The owner of any dog shall be liable in a civil action for all damages that may accrue to any person by reason of such dog's killing, wounding or chasing any sheep or other domestic animal belonging to such person. No exemption shall be allowed in favor of any person against whom a judgment has been recovered under the provisions of this section.

## ESTRAYS.

**§ 1571. By whom and when taken up.** No person shall take up an estray animal except in the county wherein he resides and is a householder, nor unless such estray is found in the vicinity of his place of residence, nor take up an estray animal mentioned in the next section between the first day of November and the thirty-first day of March, inclusive, unless the same is found trespassing upon the premises or within the inclosure of the person taking up the same.

**§ 1572. Notice of taking up estray.** Each person taking up an estray horse, mare, colt, mule, ass or any neat cattle, sheep, hog or goat, shall within fifteen days thereafter, give notice of the finding and taking up of such animal, by publishing a notice three times in a weekly newspaper, if there is such paper published in the county: if not, in the nearest newspaper, which advertisement shall give a description of such estray, and the marks and brands thereon. Any person



taking up property as herein provided who fails to advertise as aforesaid, shall be guilty of a misdemeanor.

§ 1573. **Official estray paper of the state.** It shall be the duty of such newspaper to transmit, if such property is uncalled for while being published in a local paper, the third insertion of such advertisement to such newspaper published weekly in the state as the governor shall designate as the official newspaper, in which all estray notices of the state shall be published once, and any failure on the part of the proprietor of such local paper so to do shall be a misdemeanor. § 4, c. 66, 1890.

§ 1574. **Filing estray paper. Payment of fees.** It shall be the duty of the official estray paper to transmit one copy weekly to the office of the county auditor of each county in the state, and the county auditor shall keep such copies on file in his office, and the board of county commissioners of each county shall on the first Monday in January of each year appropriate the sum of five dollars to pay the official estray paper for such publication. §§ 5, 6, c. 66, 1890.

§ 1575. **Owner may take estray, when. Arbitration.** Whenever any person shall appear and make claim to any estray so taken up, such claimant and the person taking up such estray may go before a justice of the peace in the county and such claimant shall make affidavit in writing setting forth his name and place of residence and that he is the actual owner of such estray, describing it, and thereupon the person taking up such estray shall be authorized to deliver the same to such claimant on payment of all fees advanced by him and the actual cost of caring for and keeping such estray. If the persons cannot agree as to the amount of such charges the owner of the animal and person taking up such estray shall each choose one disinterested freeholder as arbitrator, and the two so chosen shall choose a third person living in the vicinity where the estray was taken up. The amount assessed by such arbitrators shall be final. §§ 7, 8, c. 66, 1890, am'd.

§ 1576. **When title of estray vests in finder.** If such estray shall not be claimed and taken away within one year after advertisement thereof in such official newspaper, and if the person taking up such estray shall have caused the same to be duly advertised as herein provided, and shall not in any respect have violated the provisions of this article, the property therein shall immediately vest in the person taking the same up; provided, the appraised value of such estray does not exceed fifty dollars. § 9, c. 66, 1890.

§ 1577. **Appraisal.** The person taking up such estray shall notify the board of county commissioners to appraise or appoint some suitable person whose duty it shall be to appraise the value of such estray. § 10, c. 66, 1890.

§ 1578. **Fees for keeping estrays.** Any person taking up estrays may charge for actual time employed and for actual damage done to his crops. He shall also be allowed his actual cost of feeding and caring for such stock. § 11, c. 66, 1890.

§ 1579. **In case of two or more animals.** If two or more animals are taken up at the same time by the same person, they shall be enumerated in the same advertisement, and the same fees are allowed as for the advertisement or appraisal of one estray. § 12, c. 66, 1890, am'd.

§ 1580. **Sale. Deposit of proceeds.** If the appraised value of any estray exceeds fifty dollars and the same is not called for within one year after the advertisement in the official estray paper, §§ 13, 14, c. 66, 1890.

the person taking up such estray shall notify some justice of the peace of the county, and such justice shall appoint a day and place for the sale thereof, and cause notice of such sale to be posted in three public places in the county at least twenty-two days before such day so appointed, or shall cause notice of such sale to be published three times in a weekly newspaper if there is one published in the county, and on the appointed day the person taking up such estray shall have the same present at the place fixed by the justice, and the justice shall proceed to sell such estray at public auction for cash, and after paying the proper fees and charges for taking up such estray and caring for and keeping the same, to be fixed by such justice, and the fees advanced for the appraisal and advertisement of such estray as herein provided, and after deducting the fees allowed such justice for such sale and the advertisement thereof, the residue of the proceeds of such sale shall be paid to the county treasurer who shall receipt to the justice therefor. All moneys so deposited with the county treasurer shall by him be retained in the treasury for six months thereafter, separate and apart from all other moneys, and if the owner of any such estray shall within such period appear before the board of county commissioners and establish his title to such estray, such board shall order the amount so paid into the treasury to be paid to such owner. If no such owner appears within six months after the deposit of such money as herein provided the same shall be passed to the school fund of the county and shall be accounted for and expended as other school money.

§ 15. c. 66, 1890.  
am'd.      **§ 1581. Record of sold estray.** Whenever any sum of money is paid into the county treasury under the provisions of the last section the justice paying the same shall deliver to the county treasurer a certificate setting forth the description of the estray from the sale of which the same was obtained and the marks and brands of such estray and the name of the person by whom such animal was delivered to him to be sold; and such certificate shall be filed by the county treasurer and preserved in his office.

§ 16. c. 66, 1890.      **§ 1582. Fees, how paid and collected.** The fees of the justice, and for advertising and appraisers, shall be paid by the person taking up the estray, and the same shall constitute a first lien upon the estray and shall be paid by the owner before he shall be entitled to take away such estray.

§ 17. c. 66, 1890.  
am'd.      **§ 1583. Penalty for violation of this act.** If any person not authorized so to do shall take up any estray or lost goods or if any person taking up such estray or lost goods shall willfully neglect to cause the same to be advertised as herein provided, or shall fail to feed sufficiently or properly care for the same, such person shall be liable to the owner thereof for all damages.

§ 18. c. 66, 1890.      **§ 1584. Liability in case of death of estray.** If any estray after being duly advertised as herein provided, shall, without fault of the person taking up the same, die or be stolen or escape and wander away, the person taking up the same shall not be responsible therefor.

§ 19. c. 66, 1890.      **§ 1585. Other personal property governed by this act.** The manner of taking up, appraising, advertising and disposing of any lost goods or personal property which may be found upon the highways or in any other place shall be the same as herein provided for estrays.

CRUELTY TO ANIMALS.

§ 1586. **Agent to investigate. Appointment and duties of.** §§ 1.2. c.47, 1898.

The governor shall appoint a discreet and suitable person whose duty it shall be to investigate all cases of violation of the laws against cruelty to animals of which information can be obtained and bring the facts relating thereto before the proper authorities and it shall be the duty of such person to organize humane societies in different places in the state, where it can be done, whose members shall pledge themselves to the use of all reasonable means for the enforcement of the laws relating to cruelty to animals. It shall be the duty of the state's attorneys in this state to aid and co-operate with such person in the enforcement of such laws.

§ 1587. **Expenses. Appropriation.** The person so appointed § 3. c. 47, 1893.

shall act without compensation further than the payment of his actual expenses incurred. The state auditor shall issue warrants for such expenses upon presentation of itemized and verified accounts therefor, and there is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of five hundred dollars annually for the payment of such expenses.

TEXAS OR CHEROKEE CATTLE.

§ 1588. **When unlawful to import or own.** It shall be §§ 1. 2. c. 111, 1883.  
unlawful for any person, railroad company or other corporation or association:

1. To bring into this state any Texas or Cherokee cattle, except between the first day of November of each year and the first day of February following; or,

2. To own or have in possession or control within this state any Texas or Cherokee cattle at any time, which may have been brought into this state at any time except between the first day of November of each year and the first day of February following.

§ 1589. **Penalty for violation.** Any person who brings into § 3. c. 111, 1883.  
this state or causes to be brought therein, any Texas or Cherokee am'd.

cattle, except at the time prescribed in section 1588 or who shall own, possess or control any such cattle except as allowed in the preceding section, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not exceeding ten thousand dollars nor less than two hundred dollars, and in addition thereto may be imprisoned in the penitentiary for a period not exceeding three years. Any railroad conductor or employee, agent or officer of any railroad company who brings any such cattle into this state upon any railroad or vessel connected with such railroad, or who carries any such cattle upon any railroad or vessel connecting therewith from one point to another within this state shall be deemed to have possession of such cattle within the meaning of this section.

§ 1590. **Who liable for damage caused by such cattle.** § 5. c. 111, 1883.  
am'd.

Whenever in any case any damage is occasioned to any person, resulting in any manner from any such Texas or Cherokee cattle having been brought into this state at any time by any person, railroad company or other corporation or association, then such person so bringing into, or owning, possessing or controlling such cattle in this state shall be liable jointly and severally to any person who may suffer

loss or damage by reason of such bringing into or conveying through, possessing, owning or controlling within the state any such cattle; and in any action for the recovery of damages for any loss or damage which may be sustained by any person from any such cattle, it shall be sufficient for the plaintiff to show that the injury of which he complains arose from any such Texas or Cherokee cattle which may have been owned or had in possession or brought into this state at any time within the year by any such defendant, or that such cattle so brought in, owned or possessed had been where such loss or damage had been sustained. And it shall not be necessary for the plaintiff to show that the injury of which he complains accrued while any such Texas or Cherokee cattle were in the possession or ownership or control of any such defendant, it being the intention of this section to make all persons liable in the first instance for any injury which may arise from disease spreading or communicating from such Texas or Cherokee cattle so brought into, owned, possessed or controlled by them in this state.

§ 7. c. 111, 1883.

**§ 1591. What no defense. Proof necessary to recovery.** The right to bring into this state such cattle between the first day of November and the first day of February following shall in no case be any defense for any loss or damage that may accrue from such cattle to any person; nor shall the right to own, possess or control any such cattle in any case be a defense for any injury or loss which may arise to any person by reason of such right to own, possess or control such cattle. In all actions for any loss or injury which may arise or accrue to any person by reason of any injury or loss done or caused to be done to any native or domestic cattle from or by any such Texas or Cherokee cattle, the proof of the loss of any native or domestic cattle or any damage thereto, and the amount of such loss or damage, and proof that any such defendant brought into this state or owned, possessed or controlled in this state at any time any such Texas or Cherokee cattle which may have caused such injury or loss, shall be prima facie evidence of plaintiff's right to recover. And it shall be competent in the trial of such actions for witnesses to give their opinion as to whether or not any such Texas or Cherokee cattle caused the injury complained of.

§ 8. c. 111, 1883.

**§ 1592. Proceedings when Texas cattle are spreading disease.** In case any such Texas or Cherokee cattle shall be found spreading or communicating any disease among the native domestic cattle of this state, it shall be the duty of any judge of the district court, or justice of the peace, upon oath of any householder setting forth that such cattle are spreading or communicating disease among native or domestic cattle within this state, and the name of the owner or person in whose possession or control such Texas or Cherokee cattle may be, forthwith to issue a warrant to any sheriff or constable of the county commanding him forthwith to arrest and imprison in some safe place such cattle so spreading or communicating disease and to summon the owner thereof or the person found in the possession of such cattle, to appear before such judge or justice of the peace forthwith and show cause why such cattle should not be impounded until the first day of November following, and after allowing the parties a reasonable time to be heard, such judge or justice shall proceed to hear and determine whether such cattle have so spread or communicated disease. It shall be the duty of such judge or justice of the peace to order the officer in charge of such cattle to impound

them and keep them by themselves until after the first day of November following, when it shall be the duty of the officer in charge of such cattle to present to the owner or person entitled to the possession thereof a sworn statement of the costs of taking, keeping and impounding such cattle, including the costs of building the pound and providing materials for the same in case the board of county commissioners or township supervisors where such cattle were impounded had ordered the pound to be built for the purpose of impounding such cattle, and demand payment of the same together with the costs of such trial aforesaid; and upon payment of the same he shall deliver such cattle to the owner or person entitled to the possession thereof.

**§ 1593. Texas cattle defined.** Texas or Cherokee cattle as mentioned in the foregoing sections shall be taken to mean a class or kind of cattle without reference to where they may have come from; provided, that that portion of this state west of the Missouri River is exempted from the provisions hereof; but the right to bring into, own, possess or control such cattle in such exempted territory shall give no right to send, convey or cause to be sent or conveyed such cattle into that part of the state subject to the provisions hereof, or own or possess the same therein, except that such cattle may be shipped or conveyed by themselves across said river to an inclosure upon the left bank thereof upon the line of any railroad crossing this state, and may be conveyed from such inclosure across and without this state by continuous passage in cars upon such railroad. § 9, c. 111, 1883.

#### ARTICLE 7. — DISTRICT VETERINARIANS.

**§ 1594. State veterinarian to take oath.** The professor of veterinary science of the state agricultural college is made chief state veterinarian, who shall serve as such without salary, and who shall upon entering upon his duties take an oath well and truly to perform all the duties required of him by law, which said oath shall be taken before any judge of a district court or notary public within the state, and shall be filed with the secretary of state. § 1, c. 35, 1895.

**§ 1595. Division of state into districts.** The state shall be divided into seven veterinarian districts, in each of which there shall be appointed by the governor, by and with the advice and consent of the senate, one competent veterinarian, who shall be known as the district veterinarian, who shall hold his office for a term of two years from the date of his appointment unless sooner removed for cause, and who upon entering upon his duties shall take an oath well and truly to perform his duties as provided by law, which oath shall be taken before any judge of the district court or notary public within the district of the state for which he is appointed, and shall be filed with the secretary of state. § 2, c. 35, 1895.

**§ 1596. Districts defined.** District number one shall consist of the first judicial district. § 3, c. 35, 1895.

District number two shall consist of the second judicial district.

District number three shall consist of the third judicial district.

District number four shall consist of the fourth judicial district.

District number five shall consist of the fifth judicial district.

District number six shall consist of the sixth judicial district.

District number seven shall consist of the seventh judicial district.

§ 4, c. 35, 1895.

**§ 1597. Duties of chief veterinarian.** The duties of the chief state veterinarian shall be to ascertain by personal examination, or through reports from the district veterinarians, in such manner as he shall prescribe, all information that he can obtain regarding the existence of contagious, infectious and epidemic diseases in the state. He shall also make a complete and permanent record of all reports of the district veterinarian; shall make an examination of all diseased animals or portions thereof that may be forwarded to him by the district veterinarians, and upon completion of such examination shall instruct the district veterinarians in such way as he may deem proper in regard to the treatment of similar cases. It shall also be his duty to furnish material as far as lies in his power for the diagnosis of contagious diseases, and instruction as to its uses. In case remedies are discovered for the prevention or cure of contagious diseases such as glanders, tuberculosis, anthrax, hog cholera, foot and mouth diseases and foot rot, it shall be his duty to furnish the district veterinarians, or any person he may see fit to appoint, the remedies so discovered with full directions for application. He shall also be empowered to make quarantine regulations and enforce the same after the approval of the governor. He shall further prescribe, with the consent of the governor, the rules and regulations necessary to carry out the purposes of this article.

§ 2, c. 125, 1891.  
§ 5, c. 35, 1896.

**§ 1598. Duties of district veterinarians.** The duties of the district veterinarian shall be:

1. To investigate in person any and all cases of contagious, infectious and epidemic diseases among cattle, horses, mules, sheep, asses and other domestic animals within his district of which he may have knowledge, and which may be brought to his notice by any resident, or any other person, in any locality within his district where such disease may exist, and it shall also be his duty in the absence of specific information to make visits of inspection to any locality within his district where he may have reason to believe that there are contagious or infectious diseases existing among such domestic animals.

2. To seize and inspect in person at the state line bordering on his district any horses, mules, cattle, asses, sheep or other domestic animals, which may be unloaded temporarily or consigned to any point within his district, when the owner, agent or person in charge thereof shall not upon demand produce certificates of health of such animals satisfactory to him, from a duly authorized state or district veterinarian or examiner of the state from which said animals have been shipped.

3. To examine in person, as often as he may deem reasonable, all pens, inclosures and cars within the district, within which domestic animals may be confined or transported, and to require the owner, agent or person in charge of all such pens, inclosures and cars to keep the same in proper sanitary condition.

4. To require in person the owner, agent or person in charge of all pens, inclosures or cars, within which domestic animals may be confined or transported, to cleanse, fumigate and disinfect the same within two days after written notice, when, in his opinion, such cleansing, fumigating and disinfection shall be necessary for the prevention of the spread or outbreak of any contagious or infectious disease among such animals.

5. To seize and inspect all domestic animals coming into and remaining within his district without a certificate of the health of such animals from a duly authorized state or district veterinarian or examiner of the state from which said animals have been shipped, and before such animals shall be allowed by the district veterinarian to be transported into and to remain within the state. In addition to such inspection, he shall in person require from the owner, agent or person in charge of such animals an affidavit to the effect that such animals have not been exposed to any infectious or contagious disease for a period of at least ninety days prior to the making of such affidavit, and, in case the district veterinarian shall have reason to believe that any domestic animals have been exposed to or have contracted any infectious or contagious disease, it shall be his duty to seize and inspect such animals, notwithstanding any certificate of their health by any veterinarian or examiner of any other state, and report the same to the chief state veterinarian.

**§ 1599. Seizure of animals. Fees.** Whenever any domestic animals are seized and inspected under the provisions of this article by the district veterinarian while such animals are being transported in cars, on shipboard or brought into the state in any other manner, the district veterinarian making such seizure and inspection shall require the owner, agent or person in charge of such animals to pay one-half cent each for the inspection of sheep and twenty-five cents each for all other animals named herein. All money so collected shall be immediately transmitted to the chief state veterinarian, together with a detailed report of the seizure and inspection, and it shall be the duty of the chief state veterinarian to transmit monthly all money collected as inspection fees under the provisions of this article to the state treasurer, who shall receipt to the chief state veterinarian. All such fees shall be paid by the state treasurer into the general fund; provided, that no inspection shall be made by any district veterinarian of any domestic animals in transit through the state without special instructions from the chief state veterinarian, where the owner, agent or person in charge thereof shall produce certificates of the health of such animals from a duly authorized veterinarian or examiner of the state from which said animals have been shipped.

§ 5. c. 125, 1891.  
 § 7. c. 35, 1895.

**§ 1600. Quarantine.** In all cases of contagious or infectious diseases among domestic animals in this state the district veterinarian shall have authority to order the quarantine of the infected premises and animals within his district, and upon such order immediately to report the same to the chief state veterinarian, and in case such disease shall become epidemic in any locality within the state it shall be the duty of the district veterinarian of the district where such epidemic may exist or become known, immediately to notify the chief state veterinarian, who shall thereupon have authority to enforce a permanent quarantine and prevent the removal therefrom of any animals of the kind among which said epidemic exists until the district veterinarian of such district shall report such animals to be in healthy condition, and upon such report a certificate shall be issued by the chief state veterinarian permitting the removal of the animals that are reported to be healthy. The expense of holding and taking care of all animals quarantined under the provisions of this article shall be paid by the owner, agent or person in charge of the same.

§ 6. c. 125, 1891.  
 § 7. c. 35, 1895.

7, c. 125, 1891.  
8, c. 35, 1895.

**§ 1601. Epidemic diseases, notice of.** In case of any epidemic diseases where premises and animals have been previously quarantined by order of the chief state veterinarian or by the district veterinarian as hereinbefore provided, the district veterinarian is further authorized and empowered, when in his judgment it is necessary, to order that any and all diseased animals shall be quarantined at such places and in such manner as he may direct and held in such quarantine until released by certificate of the chief state veterinarian as provided in the preceding section, and in case the district veterinarian shall find that any one or more of the animals so quarantined is so diseased that it becomes necessary to destroy the same to prevent the spread of such disease to other animals, he shall at once serve, in person, a written notice of his intention to destroy the same, upon the owner, agent or person in charge of the animals so quarantined and condemned, and if such owner, agent or person in charge of such animals feels aggrieved by the decision of the district veterinarian, and shall desire a consultation of veterinarians, notice in writing to that effect must within twenty-four hours thereafter be served upon the district veterinarian issuing the notice, and it is made the duty of the resident district veterinarian to summon two district veterinarians from adjoining districts to appear and assist in diagnosing and pronouncing upon the character of the disease with which said animal is supposed to be infected, and in case all three district veterinarians, or any two of them, declare said disease to be contagious or epidemic in its character, and that such animal or animals should be destroyed to prevent the spread of such disease to other animals, the district veterinarian of the district wherein the animal is located shall immediately slaughter such animal, and not otherwise, and shall then make in duplicate a written statement, setting forth distinctly the nature of the disease for which such animal was condemned and destroyed, to be served on each owner thereof, the original of each order to be filed by the district veterinarian with the chief veterinarian and the duplicate thereof given to the owner, agent or person in charge of said condemned animals. It shall be the duty of the owner, agent or person in charge of any and all animals slaughtered under the provisions of this article immediately to bury the carcass of such slaughtered animal in a trench at least six feet in depth and at least four feet beneath the surface of the ground, or burn and consume such carcass under the direction of the district veterinarian; and it is made the duty of the district veterinarian, in person, to require the owner, agent or person in charge of such slaughtered animal within his district immediately to bury or burn under his personal supervision the carcass of such slaughtered animal as herein provided, except in all cases where the cause of death is due to anthrax, when it shall immediately be burned.

8, c. 125, 1891.  
9, c. 35, 1895.

**§ 1602. Report of district veterinarians.** Each district veterinarian shall make a report at the end of every three months, and at such other times as may be required, to the chief state veterinarian of all matters connected with his work, the forms of such reports to be furnished by the chief state veterinarian and the chief state veterinarian shall transmit to the several boards of county commissioners, as often as he deems necessary, such parts of said reports as may be of general interest to the breeders of live stock, and he shall also give information in writing as soon as he obtains it to the various boards of county commissioners, of each case of suspicion or fresh outbreak of disease in any locality, its causes and the measures adopted to check it.



**§ 1603. Certificate of health. Fine and imprisonment.** It shall be the duty of any owner, agent or person in charge of any cattle, horses, mules, asses, sheep or other domestic animals, where such owner, agent or person in charge thereof intends to bring any such animals into the state for distribution, sale, transportation, or permanent location therein, without a certificate of health from a duly authorized veterinarian or examiner of the state from which such animals are shipped, to give notice in writing to the district veterinarian of the district of the state bordering on the state line from which said animals are brought, at least three days before such animals are brought into this state beyond the quarantine station at the state line of such district, and it shall be the duty of any person who shall have knowledge or suspect that there is upon his premises or upon the public domain, any case of contagious, infectious or epidemic disease among domestic animals, immediately to report the same to the district veterinarian of the district wherein such animals or cattle may be, and a failure so to do, or any attempt to conceal the existence of such diseases or a failure to give notice, before passing the quarantine station at the state line of said district, as in this section required, or willfully or maliciously to obstruct or resist or disobey any order issued by the chief state veterinarian or the district veterinarian, or in any way interfere in the discharge of their duties, as set forth in this article, shall be deemed a misdemeanor, and any person who shall be convicted of any of the above acts or omissions shall be fined not less than fifty dollars nor more than two thousand dollars for each and every such offense; and upon conviction of such offense a second time, shall, in addition to the above named fine, be imprisoned in the county jail of the county wherein convicted, or as otherwise provided by law, for a term of not less than ninety days nor more than one year.

§ 9, c. 125, 1891.  
§ 10, c. 35, 1895.

**§ 1604. Duty of owners of stock. Animals in transit.** The following regulations shall be observed in all cases of disease covered by this article:

§ 10, c. 125, 1891.  
§ 11, c. 35, 1895.

1. It shall be unlawful to sell, give away or in any manner part with any animal affected with or suspected of being affected with any contagious or infectious disease, and in case of any animal that may be known to have been affected with or exposed to any such disease within one year prior to such disposal, due notice of the fact shall be given in writing to the person receiving the animal.

2. It shall be unlawful to kill for butcher purposes any such animal, or to sell, give away or use any part of it, or its milk, or to remove any part of the skin. A failure to observe these provisions shall be deemed a misdemeanor, and on conviction shall be punished by a fine of not less than one hundred dollars; and, in addition to such fine, be imprisoned in the county jail for a term of not less than ninety days nor more than one year. It shall be the duty of the owner, agent or person having in charge any animal infected or suspected of being infected with any contagious or infectious disease, immediately to confine the same in a safe place, isolated from all other animals, and with all necessary restrictions to prevent the dissemination of the disease until the arrival of the district veterinarian of the district wherein the same may be at the time. The above regulations shall apply as well to animals in transit through the state as to those resident therein, and the district veterinarian shall have full authority, within his district, to examine whether in yard, pasture or stables, or upon the public domain, all animals passing through

the state, within his district or any part of it, and on detection or suspicion of disease, take possession of and treat and dispose of such animals in the same manner as is prescribed for animals resident within the state.

CSRS  
§ 11, c. 125, 1891.  
§ 12, c. 35, 1895.

**§ 1605. Compensation. Bonds.** Each district veterinarian shall receive for his services the sum of six hundred dollars per annum. The payment of such salary shall be made from any funds in the state treasury not otherwise appropriated, monthly, upon itemized vouchers signed and sworn to by each for his separate district and submitted to the state auditor, who shall draw warrants upon the state treasurer for the amount thereof, if found correct, separately. No person shall be competent under this article to receive the appointment of district veterinarian who is not at the date of his appointment a graduate in good standing of a recognized college of veterinary surgeons, or who has not practiced veterinary surgery within this state for at least five years. Before entering upon the discharge of his duties he shall give a bond to the state of North Dakota, with good and sufficient surety, in the sum of two thousand dollars, conditioned on the proper discharge of the same. No constructive mileage shall be paid under this article, nor shall the district veterinarian receive any mileage except when called in cases of consultation as hereinbefore provided, when he shall receive actual expenses paid by him.

CSRS  
§ 12, c. 125, 1891.  
§ 13, c. 35, 1895.

**§ 1606. Places of quarantine.** The district veterinarians shall select the place or places within their respective districts at which all animals referred to herein shall be quarantined.

CSRS  
§ 13, c. 125, 1891.  
§ 14, c. 35, 1895.

**§ 1607. Fines.** All fines collected under the provisions of this article shall be paid into the general fund of the state.

CSRS  
§ 14, c. 125, 1891.  
§ 15, c. 35, 1895.

**§ 1608. Duty of attorney general.** It is the duty of the attorney general or the state's attorney of the respective counties of the veterinarian district, to prosecute any case complained of by the district veterinarian of such district for prosecution in any justice's or district court within the jurisdiction of which any violation of this article may have occurred, and on conviction of violation of any of the provisions of this article, the court, in addition to the penalties prescribed by law, shall add thereto such reasonable attorney's fees, as may be determined to be just in the premises.

CSRS  
§ 15, c. 125, 1891.  
§ 16, c. 35, 1895.

**§ 1609. Duty of sheep inspectors.** It shall, in addition to their duties already defined by law, be the duty of all sheep inspectors, and the district veterinarian, who is hereby authorized to appoint such inspectors, shall require all sheep inspectors within his district, to report to him in writing, at the end of each calendar month, any knowledge or information such sheep inspectors may possess relative to any diseased sheep which may be within their own or adjacent counties within the veterinarian district of which said county or adjacent counties may form a part, and the district veterinarian shall report to the chief veterinarian all the information that he obtains from the reports received from the sheep inspectors; and whenever, in the opinion of the district veterinarian, any sheep inspector within his district is incompetent, or neglects or refuses to attend in a proper manner to his duties, the district veterinarian of such district shall take charge of any diseased sheep in such county, and dip and treat them in the manner provided for in the law relating to sheep inspectors, and when such action shall become necessary, he shall report the same to the chief state veterinarian, who shall give such assistance as

is in his power, and, in addition thereto the district veterinarian shall, when such sheep inspector is incompetent or neglects to perform his duties remove said inspector and appoint some competent person in his place. The owner, agent or person in charge of such sheep shall be required by the district veterinarian, upon his performance of duty as set forth in this section, to pay a fee of five dollars per day, together with the necessary expenses, and said fees shall be a lien upon the sheep inspected, subject to foreclosure the same as chattel mortgages. All fees or moneys collected by the district veterinarian under the provisions of this article shall be remitted, turned over and receipted for the same as other funds that may pass through his hands as prescribed by section 1599.

§ 1610. **Jurisdiction of inspector.** In all the counties of this state where a sheep inspector has been or may be appointed as provided for by law, the resident sheep therein shall be under the supervision and inspection of such sheep inspector; provided, that upon a written application signed by not less than three sheep owners the district veterinarian shall visit such county and take such authority or give such directions as in his judgment is necessary.

§ 16, c. 125, 1891.  
§ 17, c. 35, 1895.

§ 1611. **Inspector's compensation.** The inspector shall receive for his services five dollars per day while necessarily employed in inspecting, which shall be paid out of the county general fund in the same manner and form as claims against the country are paid; provided, that the board of county commissioners shall require such sheep inspector to present an itemized statement of the number of sheep inspected and the number of days actually employed in the performance of his official duties, such statement to be approved by the district veterinarian of the district in which such inspector is engaged.

§ 18, c. 35, 1895.

§ 1612. **State veterinarian, additional duties.** In addition to the duties of the chief state veterinarian hereinbefore prescribed, he shall make an annual report to the governor on or before the first day of December of all matters connected with his work, and in addition thereto may, from time to time, as in his judgment seems best, publish bulletins for general distribution, giving information as to the existence of animal diseases in the state, and such suggestions in addition thereto as to the care and treatment as he thinks proper.

§ 19, c. 35, 1895.

§ 1613. **Appropriation.** For the purpose of carrying out the provisions of this article as herein set forth, there shall be appropriated out of any money in the state treasury not otherwise appropriated, an annual sum of thirty-six hundred dollars with which to pay the salaries of the district veterinarians, and the further annual amount of five hundred dollars for stationery, clerk hire and traveling and other necessary expenses of the chief state veterinarian.

§ 20, c. 35, 1895.

§ 1614. **Serious outbreaks of diseases.** In case of any serious outbreak of any contagious, infectious or epidemic diseases among domestic animals, which cannot be supervised by the district veterinarian, the chief state veterinarian shall at once notify the governor, who shall thereupon appoint a sufficient number of deputies to perform the required duties at such compensation as he may deem proper, not to exceed five dollars per day for the actual time employed, the same to be paid out of the general fund of the state upon vouchers duly approved by the governor and the chief state veterinarian.

§ 21, c. 35, 1895.

ARTICLE 8.— STATE BOARD OF VETERINARY MEDICAL EXAMINERS.

§§ 1. 2. c. 113,  
1895.

**§ 1615. Qualifications of veterinarians.** Each person practicing veterinary medicine, surgery or dentistry in any of its departments in this state, shall possess the qualifications required by this article; provided, that any person who has practiced veterinary medicine, surgery or dentistry as a profession in this state for three years immediately preceding the passage and approval of this article, and who shall be a citizen of the United States, or shall have declared his intention to become such, shall be deemed eligible to registration, and shall receive a certificate upon presentation of a sworn affidavit and letters of recommendation from five reputable freeholders in his locality, or upon presentation of a diploma from a legally authorized veterinary school, college or university, if made before July first, 1895.

§ 3, c. 113, 1895.

**§ 1616. Board of examiners, how appointed. Term.** The governor shall appoint a board of examiners within thirty days after the passage of this article to be known as the state board of veterinary medical examiners. Such board shall consist of three practicing veterinarians, who shall each be the holder of a diploma granted by a legally authorized veterinary school, college or university, who shall hold office, one for one year, one for two years, and one for three years, after such appointment, or until their successors are appointed. Thereafter, each year, the governor shall appoint one member of said board to fill the vacancy occasioned by the expiration of the term of office of those previously appointed, and is further authorized to fill such vacancies as may occur.

§§ 4. 6, c. 113,  
1895.

**§ 1617. Organization of board.** Said board shall elect a president, secretary and treasurer. It shall have a common seal, and the president and secretary shall have power to administer oaths. Said board shall hold meetings for the examination of candidates, on the second Wednesday of April and October of each year, and such other meetings as may be deemed necessary, at such time and place as the board may appoint, no session to exceed two days. The board shall issue a certificate of qualification to all applicants who shall pass the required examination, and who shall be citizens of the United States, or shall have legally declared their intention to become such, and to all applicants who are eligible to registration under section 1615, signed by the president and secretary of the board. Such certificate or diploma shall be conclusive as to the right of the lawful holder of the same to practice veterinary medicine, surgery or dentistry in this state. Said board shall keep a record of all the proceedings thereof, and also a record or register of each applicant for a license, together with his age, name and time spent in the study and practice of veterinary medicine, surgery or dentistry; and if a graduate, the name and location of the school, college or university granting such diploma. Said books and records shall be prima facie evidence of all the matter therein recorded.

§ 5, c. 113, 1895.

**§ 1618. Permit to practice.** Any person wishing to practice veterinary medicine, surgery or dentistry, who is qualified under section 1621, may apply to the president of the board of examiners for a permit to practice. The president shall upon payment of five dollars, if satisfied that the applicant is qualified and a suitable person, issue to him a permit to practice until the next meeting of the board, and such permit shall have the same force as a certificate from the board,

but shall expire upon the adjournment of the next meeting of the board of examiners.

§ 1619. **Diplomas and certificates.** Persons presenting diplomas or certificates for registration, shall pay to the treasurer of said board a fee of ten dollars in advance; and the fees received by said board shall be paid over to the state treasurer within thirty days after receipt of same. Said fees shall constitute a special fund for the payment of the expenses of said board of examiners. Each member of said board shall receive from the state treasury all necessary traveling expenses actually incurred in attending such meetings. The secretary of the board shall certify to the state auditor after each meeting of the board the amount due each member for necessary expenses in attending such meetings, and other necessary expenses of the board. The state auditor shall thereupon issue his warrant on the state treasurer for such sum provided there has been a sufficient amount paid into the treasury in fees to redeem said warrants; but if there is not an amount equal to said certified expenses to the credit of such fund, he shall issue his warrant for the amount in the said special fund and deficiencies in the payment of said expenses may be made up from subsequent receipts.

§ 7, c. 113, 1895.

§ 1620. **Misdemeanor to practice, etc., when.** Any person who either:

§§ 8, 9, c. 113, 1895.

1. Practices veterinary medicine, surgery or dentistry in this state without compliance with the provisions of this article; or,

2. Willfully and falsely claims or pretends to have or hold a certificate of registration issued by such board; or,

3. Willfully and falsely, with intent to deceive the public, claims or pretends to be a graduate of, or to hold a diploma granted by a legally authorized veterinary school, college or university, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than fifty nor more than one hundred dollars, and in case of non-payment of such fine, the person so offending shall be liable to imprisonment for a period not exceeding six months. All fines received under this article shall be paid into the common school fund of the county in which such conviction takes place.

§ 1621. **Examination.** All persons commencing the practice of veterinary medicine, surgery, or dentistry in this state after the passage and approval of this act, shall be graduates of a legally authorized veterinary school, college or university, and shall subject themselves to such examination as the board may require.

§ 10, c. 113, 1895.

§ 1622. **Certificates recorded.** Every person holding a certificate from the board of examiners shall have it recorded in the office of the register of deeds in the county in which he resides, within thirty days after the date of said certificate, and the record shall be indorsed thereon. Any person removing to another county to practice shall record within thirty days the certificate in a like manner in the county to which he removes, and the holder of the certificate shall pay to the register of deeds a fee of one dollar for making the record.

§ 11, c. 113, 1895.

§ 1623. **Gratuitous services.** Gratuitous service in cases of emergency in the dehorning of cattle, or castration of animals, shall not be construed as coming within the meaning of this article.

§ 12, c. 113, 1895.

§ 1624. **Witnesses. Expert fees.** Any person complying with the provisions of this article shall be entitled to expert fees as a witness in all civil actions relating to the veterinary profession.

§ 13, c. 113, 1895.

## ARTICLE 9. — GLANDERS.

§ 1. c. 65, 1883.  
am'd.

**§ 1625. Penalty for having glandered animals in possession.** It shall be unlawful for any person to own, have in possession or in any manner keep, use or control any horse, gelding, mare, ass or mule infected with the disease commonly known as glanders; and each person who knowingly owns or possesses or in any manner keeps, uses or controls a glandered animal as aforesaid, shall be deemed guilty of a misdemeanor and shall be punished accordingly and all such diseased animals shall be summarily destroyed as hereinafter provided.

§ 2. c. 65, 1883.  
am'd.

**§ 1626. Complaint to justice of the peace. Duty of justice.** When complaint in writing is made to a justice of the peace of the proper county, verified by oath or affirmation, stating that any person owns, possesses or in any manner keeps, uses or controls any horse, gelding, mare, ass or mule infected with the disease commonly known as glanders, it shall be the duty of the justice upon filing such complaint immediately to cause notice to be served upon the person so owning, possessing, keeping, using or controlling such animal, which notice shall set forth briefly the allegations of the complaint and command such person forthwith to appear before such justice and show cause why such justice shall not issue a warrant for the destruction of such animal, and either the complainant or the person summoned may demand a trial by jury of six men to whom the hearing of the matter shall be submitted, and both parties shall be entitled to witnesses, to be summoned by subpoena as in other actions, and such examination and hearing shall be conducted in all respects as civil actions in such courts, and if the jury or court desires, they may cause such person to bring such animal before them for inspection. Upon the conclusion of the trial the court, or jury if trial is had by jury, shall forthwith render a judgment or verdict, stating that the charge in the complaint is or is not true, which judgment or verdict shall be final in the matter.

§ 3. c. 65, 1883.

**§ 1627. Duty of justice after verdict.** In case the verdict of the jury shall be that the complaint is true and that such animal is infected with glanders, the justice shall forthwith direct by warrant that the owner or person having such animal in possession forthwith kill and bury or otherwise destroy the same, which warrant may be served upon such owner or person the same as a summons; and in the case of a corporation, each officer thereof shall be responsible in its behalf for the acts of the corporation, and such service may be made upon any officer thereof.

§ 4. c. 65, 1883.

**§ 1628. Penalty for disobeying warrant.** If the owner or person having possession of such diseased animal, after having been served with a warrant as hereinbefore provided, shall for the period of twelve hours after such service neglect or refuse to kill and bury or otherwise destroy such animal, such animal shall be forthwith killed and buried or otherwise destroyed by order of the justice directed to the person serving such warrant, or some other competent person to be named by the justice in the order, and the officer or person executing the same shall make return thereof to the justice. The officer or person executing such order shall be entitled to a fee of ten dollars to be audited and paid as hereinafter provided.

**§ 1629. Justice to preserve record and certify costs.** The justice of the peace before whom any such proceeding shall be had shall enter in his docket a record of all such proceedings, and shall allow and tax all costs of the justice, officers, jurors and witnesses the same as in other cases, together with the fee provided herein for destroying such animal, which costs and fee shall be certified by him to the board of county commissioners, and shall be audited and paid out of the general county fund the same as costs in criminal actions before justices of the peace; but the justice may tax the costs against the complainant if he finds that the action was malicious or without probable cause, and such judgment for costs shall be enforced as judgments for costs in criminal actions, and execution may issue therefor. § 5, c. 65, 1883.

#### ARTICLE 10. — SHEEP INSPECTORS.

**§ 1630. Appointment of sheep inspectors. Term of office.** The county commissioners of any organized county, shall upon the presentation of a petition, signed by ten wool growers of such county, appoint a sheep inspector who is acquainted with the diseases to which sheep are subject, and who shall be a resident of the county for which he is appointed, and who shall hold his office for two years, unless sooner removed. Such inspector may appoint as many deputies as he may deem necessary. § 1, c. 116, 1891.

**§ 1631. Duty of sheep inspector.** It shall be the duty of the sheep inspector whenever he has knowledge or information that any sheep within his jurisdiction have the scab or any other malignant contagious diseases, to inspect such sheep and report in writing the result of his inspection to the district veterinarian, to be filed by him for reference by the county commissioners or any person concerned, and if such disease continues he shall once every four weeks thereafter reinspect such sheep and report in writing the result and treatment, if any, in the same manner until said disease is reported cured. § 2, c. 116, 1891.  
am'd.

**§ 1632. Duty of owner or agent of diseased flock.** The owner, or his agent, of any sheep reported by the inspector to be so diseased shall immediately herd them so that they cannot range upon or within one mile of any grounds accustomed to be ranged upon by any other sheep, or shall restrain them from passing over or traveling upon or within one mile of any public highway or road, and in case this cannot be done he shall immediately remove said sheep to a locality where they shall not be permitted to range within less than five miles of any other sheep, and such sheep shall continue to be herded under such restrictions until, upon inspection, they shall be reported free from such disease. § 3, c. 116, 1891.

**§ 1633. Oath and bond of inspector. Where recorded.** Each inspector before entering upon the duties of his office shall take the oath of office required of other civil officers and shall give bond to the state of North Dakota in the sum of one thousand dollars with good sureties, conditioned that he will faithfully perform the duties of his office; such bond shall be approved by the board of county commissioners, and with the oath indorsed thereon shall be recorded in the office of the county auditor of the county in which the inspector shall reside and may be sued on by any person injured on account of the unfaithful performance of said inspector's duty: provided, that no §§ 8, 9, c. 116,  
1891.

suit shall be so instituted after more than twelve months have elapsed from the time the cause of action accrued.

§ 10, c. 116, 1891. **§ 1634. When infected sheep dipped. Penalty.** Every owner of sheep having scab or other malignant contagious disease shall dip or otherwise treat the same upon his own premises; provided, that when he has more than one ranch or set of ranches and the diseased sheep are not upon the ranch where the dipping works or other facilities for treating the diseased are situated, he shall have the right to drive through intermediate ranges, but in so doing shall consult the owners or occupants of said range as to where he shall cross the same, and in no case shall he enter another corral or water at his troughs or accustomed watering places with his diseased sheep without the written or otherwise expressed consent of the owner, and for every violation of the provisions herein he shall be subject to a fine of not exceeding one hundred dollars.

§ 11, c. 116, 1891. am'd. **§ 1635. Salary of inspector, how paid.** The inspector shall receive for his services five dollars per day while necessarily employed in inspecting, which shall be paid out of the county general fund in the same manner as other claims against the county are paid; but the board of county commissioners shall require such sheep inspector to present an itemized statement duly verified of the number of sheep inspected and the number of days actually employed in the performance of his official duties.

§ 12, c. 116, 1891. **§ 1636. Power of inspectors.** In all cases where scab or other contagious diseases are found in a flock of sheep, the sheep inspector is hereby empowered to prescribe what dip or other remedies shall be applied and specify the manner of treatment.

§ 13, c. 116, 1891. **§ 1637. Owners must notify inspectors.** In all cases where sheep are brought into any county of this state the owner or person in charge of said sheep shall notify the inspector of the date of the arrival in said county and before being allowed to mingle with other sheep shall be quarantined for a period of not less than forty days, in a location approved of by the sheep inspector of said county; provided, however, where sheep have been ranged for not less than forty days near the county line of the county to which said sheep are to be removed and are known to be free from disease, the provisions of this section shall not apply.

§ 5, c. 135, 1885. **§ 1638. Penalty for violation of.** The owner or his agent or employees, of any flock of sheep to be inspected shall afford the inspector all reasonable facilities for making such inspection, and for every violation of any of the provisions of this article such owner or his agent or employees shall be fined not less than ten dollars nor more than three hundred dollars, and every separate day's offense shall constitute a separate offense, and the written report of an offense made by an inspector under oath shall be prima facie evidence of the commission of such offense, and any justice of the peace of the county in which the offense is committed shall have jurisdiction thereof, and such inspector shall report all violations of the provisions of this article, of which he has knowledge.

§ 8, c. 135, 1885. **§ 1639. Record of official act of inspector.** Every inspector shall keep a fair and correct record of all his official acts, and if required give a certified copy of any record upon payment of the fees therefor, and in case of the inspector's death, resignation or removal said record shall be deposited with the register of deeds.



**§ 1640. Fine for false report of inspector.** Whenever a sheep inspector shall willfully or falsely report any sheep subject to disease, he shall be subject to a fine of ten times the amount of the fees charged by him for the inspection, and if he shall willfully or falsely report free from disease any sheep inspected by him that are thus infected, he shall be subject to a penalty of not exceeding three hundred dollars for each offense. § 11, c. 135, 1885.

**§ 1641. Removal of inspector. Cause.** If any sheep inspector shall be found guilty of either of the offenses set forth in the last section, or if on complaint in writing by any three wool growers of the county the county commissioners, after allowing the inspector a fair hearing, shall be of opinion that he is incompetent to discharge intelligently and efficiently the duties of his office, or that having sufficient knowledge or information he has for any cause willfully or negligently failed to make the required inspection, or has needlessly made inspections for the purpose of securing fees, or that his reports have been influenced by favor or prejudice, or from any cause he has failed in the proper discharge of the duties of his office, it shall be the duty of the commissioners to declare such office vacant and to make a new appointment. § 12, c. 135, 1885.

ARTICLE 11. — GAME LAW.

**§ 1642. Game warden, how appointed. Bond. Duties.** There shall be appointed by the governor a state game warden, whose term of office shall be two years, commencing on the first Tuesday in April next succeeding his appointment and until his successor is appointed and qualified. He shall give a bond to be approved by the governor, in the sum of two thousand dollars, conditioned for the faithful performance of his duties. It is the duty of the state game warden to superintend and aid in the enforcement of all laws of this state for the preservation of game therein. He shall appoint deputy game wardens as follows: In each county having less than three thousand inhabitants, one deputy; in each county having more than three thousand and less than seven thousand inhabitants, two deputies; in every other county, three deputies. Each deputy shall be an elector of the county for which he is appointed, and shall hold office at the pleasure of the state game warden.

**§ 1643. Unlawful to hunt without permit.** It shall be unlawful for any nonresident of this state to hunt, kill or wound in this state any of the wild animals or birds mentioned in chapter 72 of the penal code, without having first obtained the permit for nonresidents hereinafter provided for. It shall be unlawful for any resident of this state, either alone or with another or others, to use any dog in hunting, setting, pointing or retrieving any game unless such resident shall hold a permit good at the place where he so uses a dog, as hereinafter provided. Such permits shall be subject to inspection by any person upon demand.

**§ 1644. Permits, forms of.** The state game warden shall cause forms of such permits to be printed which shall be substantially as follows:

State of North Dakota, }  
 County of..... } ss.

....., a  
 nonresident of North Dakota, is hereby licensed to hunt in North

Dakota under the provisions and conditions of the game laws thereof until the first day of January next after the date of this permit.

Dated at..... this.....day of....., 189..

.....  
County Auditor.

RESIDENT PERMIT.

State of North Dakota, }  
County of..... } ss.

.....  
a resident of..... county, state of North Dakota, is hereby licensed to hunt in this state with a dog or dogs until the first day of January next after the date hereof.

Dated at.....this.....day of....., 189..

.....  
County Auditor.

Such permits shall be indorsed by the state game warden and issued by him to the county auditors of the several counties of the state.

§ 1645. **County auditors to issue permits. Fees.** The county auditor shall fill out and issue one of such permits to any person applying therefor, on payment of twenty-five dollars if the applicant is a nonresident of the state, and on payment of fifty cents if the applicant is known to the auditor or satisfactorily proved to him to be a resident of the state, and in addition to such charge the auditor shall charge a fee of twenty-five cents for each permit issued by him; provided, that any nonresident who may be carrying on the the cultivation of any lands in the state, not less than one quarter section, shall be entitled to take out a resident permit, whether such nonresident is the owner of the lands so cultivated in whole or in part, or a stockholder in a corporation carrying on such cultivation; provided, further, that such nonresident shall take out such permit in the county where such cultivation is so carried on; provided, however, that nothing in this section shall prohibit a person from hunting on lands of his own during the open season as provided by law. No permit shall be valid unless indorsed by the state game warden, signed by the county auditor and sealed with the county seal. Such permits shall authorize the holder to hunt throughout the state, either with or without a dog. All permits shall expire on the first day of January next after their issuance.

§ 1646. **County auditor to report permits and fees.** On the first day of November each year, each county auditor shall make a statement to the state game warden showing the number of each kind of permits issued by him during the preceding twelve months, and shall at the same time remit to him that part of the license fees which he is entitled to receive. Not later than November first each year the county auditor shall pay to the deputy game wardens of his county that part of the license fees to which they are entitled.

§ 1647. **Powers and duties of game warden and deputies.** For the purpose of enforcing the laws of this state for the protection of game, the state game warden and his deputies shall have all the powers conferred by law upon constables. It shall be the duty of each deputy game warden diligently to inform himself of all violations of such laws, and to make report thereof to the state's attorney

who shall forthwith prosecute the same. Upon any conviction had upon such report there shall be paid to the deputy a fee of five dollars to be taxed and collected as a part of the costs in the case.

§ 1648. **Disposition of permit fees.** One-third of all moneys paid for permits issued under section 1645 shall be paid by the county auditor to the state game warden and shall be in full of all compensation to be paid him. Two-thirds of all moneys paid for such permits shall be divided by the county auditor equally among the deputy game wardens of his county and shall be in full of their compensation, except as above provided.

#### ARTICLE 12. — FISHWAYS.

§ 1649. **Passageway for fish in all dams.** There shall be erected and maintained by the owner of any dam across any stream in this state a fishway at least one foot in depth at the edge of such dam of proper width to allow all fish endeavoring to migrate to the waters of such stream above the dam to pass over the same. Such fishway shall be placed at an angle of not more than thirty degrees, and extend entirely to the running water below the dam, and it shall be protected on each side by an apron at least one foot in height to confine the waters therein. Such fishway shall be constructed under the supervision of the county commissioners of the county where such dams are located, and be located at such place in such dam and built in such manner and of such material as they may direct.

§ 1650. **County commissioners may build fishway, when.** Whenever the owner or occupant of any such dam neglects or refuses to construct such fishway or chute over the same, the commissioners of the county shall proceed on notice to them in writing, made by five freeholders of the county, to let the work of erecting such fishway or chute, and providing material therefor, to the lowest responsible bidder, and all expenses attendant upon the erection or maintenance of the same shall be paid by the owner or occupant of the dam, and shall be recovered in the name of the person building such fishway or chute upon the acceptance of the same by the county commissioners; and if not paid by such dam owners or occupants the same shall become a lien upon such property, and shall be collected as is provided for enforcing mechanic's liens.

#### ARTICLE 13. — STATE FISH HATCHERY.

§ 1651. **State fish commissioner, duties of.** The state superintendent of irrigation and forestry is hereby constituted the state fish commissioner of North Dakota, whose duty it shall be to act in conjunction with the United States commissioner of fish and fisheries, and otherwise as his judgment may dictate, by stocking the waters of this state with fish, by distributing in suitable parts thereof such fish as he may deem best adapted to furnish cheap and nutritious food for the people; to establish and maintain state fish hatcheries and such fish breeding ponds as he may deem necessary, and to equip and stock the same with fish; to employ suitable agents to take charge of and propagate such young fish and fish eggs as he may require or obtain; to have the entire charge of the fish culture and a general supervision of all the fish of the waters throughout this state and to take such legal steps as shall secure proper protection of

the same; provided, that nothing in this article shall be so construed as to make the state liable for the lands, springs or waters secured for state fish hatcheries or fish breeding ponds or for any service rendered by any fish agents or any other person engaged in such work as named in this section.

§ 4. c. 64, 1895. **§ 1652. Duty of peace officer.** Every seine, net or other unlawful device used or intended to be used to catch, take, kill or destroy any fish in this state contrary to the laws thereof is forfeited to the state, and it is the duty of every peace officer of this state to seize and destroy any such device whenever the same is being used in violation of this article.

§ 5. c. 64, 1895. **§ 1653. Report of commissioner, when.** Two months previous to the meeting of the legislative assembly, the state fish commissioner of North Dakota shall make a report to the governor of this state giving an account of the doings of his office, together with such recommendations as in his judgment may best promote fish culture in this state.

#### ARTICLE 14.—PRAIRIE FIRES.

##### GENERAL PROVISIONS.

§ 1. c. 60, Pen.C. **§ 1654. Prairie fires forbidden.** If any person shall set or cause to be set on fire any woods, marsh or prairie, or any grass or stubble lands except in the months of July or August, except as hereinafter provided, such person shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than ten nor more than one thousand dollars, and be imprisoned in the county jail for a period not exceeding six months, or either, or both at the discretion of the court, and shall also be liable in a civil action to any person damaged by such fire to the amount of such damage.

§ 2. c. 60, Pen.C. **§ 1655. Fire permitted, when.** For the purpose of destroying any grass or stubble that may be on any piece of land at the time any person commences to break or plow the same, it shall be lawful for such person to set the same on fire at any time in the year; provided, that at the time of setting such grass or stubble on fire there shall be a strip of land well plowed or burned over at least fifty feet in width completely encompassing the place where such fire is set.

§ 3. c. 60, Pen.C.  
am'd. **§ 1656. Accidental damages.** If any fire, set as provided in the last section shall by accident and without any fault or neglect of the person setting the same, get beyond his control, such person shall be liable as provided in section 1654 for all damages done by such fire, but not otherwise. But if such fire is carelessly, negligently or intentionally permitted to spread beyond the bounds of such strip of land mentioned in the last section, then the person setting such fire shall be liable both civilly and criminally as provided in section 1654.

§ 4. c. 60, Pen.C.  
am'd. **§ 1657. Grasshopper destruction.** It shall be lawful for any person at any time between the twentieth day of April and the twentieth day of June to set on fire, for the purpose of destroying grasshoppers, any marshes, prairies, grass or stubble lands, owned or occupied by him, or any marshes, prairies, grass or stubble lands adjacent thereto; provided, that the person desiring to set such fire shall give at least twenty-four hours' notice to all persons residing within one and a half

miles of the place where the fire is to be set, and shall state at the time of giving such notice the time when and place where such fire will be set. Such person shall take all necessary precaution before the setting of such fire, to prevent damage by the same.

**§ 1658. Fire limited.** Fire set under the provisions of the last section shall not be allowed to spread beyond the control of the person setting the same, and shall be extinguished the same day on which it is set. § 5. c. 80, Pen.C.

**§ 1659. Penalty for violation.** Any person violating the provisions of the last section shall be liable in a civil action to any person damaged by such fire to the amount of such damage; and in case any person shall negligently, carelessly, willfully, maliciously or intentionally violate the provisions of the last section such person shall be liable both civilly and criminally the same as though he had violated the provisions of section 1654. § 6. c. 80, Pen.C.

**§ 1660. Penalty for setting fire to woods or prairies.** If any person shall willfully, negligently or carelessly set or cause to be set on fire any woods, marsh or prairie in this state, or if any person having made any camp or other fire shall leave such fire without having thoroughly extinguished the same, so that the fire shall spread and burn any wood, marsh or prairie, the persons guilty of setting or causing to be set such fire or leaving such camp or other fire without having thoroughly extinguished the same, so that the fire shall not spread therefrom, is guilty of a misdemeanor and upon conviction thereof is punishable by a fine not exceeding two hundred dollars or by imprisonment in the county jail not exceeding one year, or by both in the discretion of the court, and shall also be liable in a civil action to any person damaged by such fire to the amount of such damage. § 1. c. 106, 1881.  
§ 1. c. 123, 1887.

**§ 1661. Responsibility of persons setting fire for damages.** If the ranch, building, improvements, fences, timber, marsh or other property of any person shall be injured or destroyed by any such fire the person who causes or allows the same shall be responsible to the person injured thereby for all damage or injury caused or sustained by reason of such fire. If the cattle range or improvements of any person are injured or destroyed by any such fire, or if the hay upon any such range or the grass growing thereon shall be injured as aforesaid, the person causing or allowing the same shall be responsible to the person owning or claiming the same and injured thereby, for all the damage or injury caused or sustained by reason of any such fire. §§ 2. 3. c. 106,  
1881.  
am'd.

**§ 1662. Proof necessary to sustain claim for damages.** In any action instituted in any court to recover damages under the provisions of the foregoing section, it shall not be necessary for the person injured by such fire to allege or prove on the trial of such action, title to the real property over which such fire has spread, but it shall be sufficient in any such action to allege and prove that the person so injured was in the occupancy or possession of such ranch, building, improvements, fencing, timber or other property, claiming the right to and occupying with cattle any such cattle range, it being the purpose and intention to protect the possession as aforesaid, whether such person has title to such land or not. § 4. c. 106, 1881.  
am'd.

- § 1. c. 93, 1891.  
am'd.      **§ 1663. Tools and appliances.** It shall be lawful for the county commissioners in any county in this state to provide such tools and appliances as may be necessary to aid and assist in making fire breaks to prevent the spread of prairie fires.
- § 2. c. 93, 1891.  
am'd.      **§ 1664. County divided into districts.** The board of county commissioners shall have power to divide the county into as many districts as may in its judgment be necessary, and each district so formed shall be known and designated as fire district No. . . . .; provided, that whenever practicable the road overseer residing in such fire district shall be fire warden, and he shall in addition to his other bond be required to give a bond as such fire warden in the sum of five hundred dollars, with two good and sufficient sureties to be approved by the board of county commissioners, conditioned for the faithful discharge of the duties of such fire warden.
- § 3. c. 93, 1891.      **§ 1665. Fire breaks.** The road supervisors shall have the right, and it shall be their duty, whenever in the judgment of the board of county commissioners at any regular meeting fire breaks should be made, to call on any person liable to the payment of road poll tax in their respective districts to come forth with such tools or teams as the road supervisor may direct and work upon such fire breaks at least two days in each year.
- § 4. c. 93, 1891.      **§ 1666. Notice to work on fire breaks.** The road supervisor shall give at least three days' notice to all persons liable to road poll tax and living within their respective districts of the time and place when and where they are to appear for work on fire breaks, and with what implements. Each person warned to work may appear in person or by an able bodied substitute, and such person or substitute shall work eight hours in each day. Each person notified and who refuses or neglects to appear as above provided, shall be fined in the sum of twenty-five dollars to be collected as other fines are collected.
- § 5. c. 93, 1891.      **§ 1667. Districts, how mapped out.** The fire warden may use his discretion and take advantage of any creek, river or other natural or artificial barrier to prairie fires, and of broken or plowed fields, and may in his judgment map out his district in any form, so that when the fire guards are made a prairie fire may be confined to the smallest possible area consistent with the amount of funds available in his fire district.
- § 6. c. 93, 1891.  
am'd.      **§ 1668. Legal fire break.** A strip of land plowed or burned, or partly plowed and partly burned, not less than sixty-six feet wide is hereby designated a legal fire break or fire guard.
- § 7. c. 93, 1891.      **§ 1669. When prairie may be set on fire.** For the purpose of making a fire guard it shall be lawful to set on fire a strip of prairie not exceeding one hundred feet in width, which shall be protected on each side by a strip of plowing or burning not less than five feet wide, and at such burning there shall not be less than four men present prepared with water and suitable appliances to keep such fire under control.
- § 8. c. 93, 1891.      **§ 1670. Appropriation for fire guards.** The board of county commissioners is hereby authorized to expend not to exceed the sum of one thousand dollars annually from the road and bridge fund for the purpose of constructing fire guards.
- § 9. c. 93, 1891.      **§ 1671. Warden may summon persons to work.** The fire warden shall have the power to summon all persons liable for highway tax, to work the same in aiding to make fire guards, and they shall have the same credit therefor as if the work had been upon the

highways. The same law as to notice and failure to work, which applies to highways, shall apply to this law.

§ 1672. **Penalty for failure to comply.** The fire warden shall have power to call out a sufficient number of men in case a prairie fire threatens any portion of his fire district, to extinguish or control such fire as far as possible, and to protect property, and any one warned out by the fire warden or under his direction, who refuses or neglects to respond, unless he renders a reasonable excuse, shall be guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten nor more than twenty-five dollars. § 10, c. 93, 1891. am'd.

§ 1673. **Railroad companies to burn weeds.** It is the duty of each railroad company within this state whose railroad is operated by steam power, as soon as possible in each year to burn or otherwise destroy all grass, weeds or other combustible matter upon the right of way of such company. § 11, c. 93, 1891.

§ 1674. **Liability for carelessly setting fires.** Each person who willfully, negligently or carelessly sets or causes to be set on fire any woods, hay, weeds or prairie grass shall be guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than five hundred dollars or by imprisonment in the county jail not more than one year, or by both in the discretion of the court, and shall also be liable to any person damaged by such fire to the amount of such damage. § 12, c. 93, 1891. am'd.

## ARTICLE 15. — BOUNTIES TO MANUFACTURERS.

### SPINNING FIBRES.

§ 1675. **Who entitled to benefits.** Any person, company or corporation who shall hereafter make in this state from flax or hemp, grown in this state, long line and spinning fibres, either flax or hemp, and spinning tows, shall be entitled to the benefits of the next section. § 1, c. 77, 1895.

§ 1676. **Bounty to be paid.** There shall be paid from the state treasury as bounty to any person, company or corporation aforesaid, the sum of one dollar for each one hundred pounds of long line and spinning fibres, either flax or hemp, and spinning tows, made or manufactured by said individual, company or corporation in this state from flax or hemp exclusively grown in this state, and said bounty shall be paid annually for the term of five years from the first day of May, 1895, to each individual, company or corporation, entitled to the same under the provisions of this article. § 2, c. 77, 1895.

§ 1677. **Samples inspected. Certificates.** Said fibres and tows, when manufactured, shall be inspected from samples produced or by inspection of said fibres and tows in bulk by a commission, which commission shall consist of one practical flax man, a citizen of this state, and of one of the trustees of the university of North Dakota, each to be named annually by the governor, and of the president of the agricultural college, and in the event the commission or a majority of the members thereof shall be of the opinion that the fibres or tows are of a marketable quality for spinning purposes, they shall give said manufacturer a certificate to that effect, and said certificate shall specify the place where and date when said fibres or tows were manufactured and the number of pounds of fibres or tows of the quality aforesaid, made or produced by said person, company or corporation, and the state auditor, upon the production and surrender of such certificate, shall issue to the person, company or corporation § 3, c. 77, 1895.

named therein, or to his or its order, a warrant on the state treasurer for the amount named in such certificate, and such warrant shall be paid out of any moneys in the state treasury not otherwise appropriated, and said warrant shall also be received in payment of state taxes.

- § 4, c. 77, 1865. **§ 1678. Rules and regulations.** Said commission shall not issue any certificates herein provided for until it is satisfied said fibres or tows are of the standard herein named and made exclusively from material grown in this state, and said commission is empowered to make such rules and regulations for said inspection, and call for such evidence and samples to aid them in making said inspections and for carrying out the provisions of this act, as it may deem necessary.

#### BINDING TWINE.

- § 1, c. 78, 1895. **§ 1679. Who entitled to bounty.** All persons, companies or corporations formed or that may be formed in this state for the purpose of manufacturing binding twine from material grown within the state, suitable for binding grain, or any and all individuals engaged, or that may be engaged in such manufacture in this state, shall be entitled to the bounty provided in the next section.

- § 2, c. 78, 1895. **§ 1680. Bounty to be paid.** There shall be paid from the state treasury as bounty, to any individual, company or corporation, the sum of one dollar for each one hundred pounds of binding twine manufactured by said individual, company or corporation in this state, suitable for binding grain, and said bounty shall be paid upon each year's results, for the term of five years from the first day of July 1895, to all individuals, companies or corporations entitled to the same under the provisions of the preceding section; provided, that the individual, company or corporation, receiving such bounty shall make a report to the commissioner of agriculture and labor stating the number of pounds of binding twine manufactured under the provisions hereof, which report shall be duly verified by affidavit.

#### STARCH.

- § 1, c. 79, 1895. **§ 1681. Who entitled to bounty.** All persons, companies or corporations formed or that may be formed in this state for the purpose of manufacturing starch from potatoes grown in this state or any and all individuals engaged or that may be engaged in such manufacture in this state shall be entitled to receive the bounty provided in the next section.

- § 2, c. 79, 1895. **§ 1682. Bounty to be paid.** There shall be paid out of the state treasury as bounty to any individual, company or corporation the sum of one dollar for each one hundred pounds of starch manufactured by said individual, company or corporation in this state, from potatoes grown therein, and said bounty shall be paid upon each year's results for the term of five years from the first day of September, 1895, to all individuals, companies or corporations entitled to the same under the provisions of the preceding section; provided, that the individual, company or corporation receiving such bounty shall make a report to the commissioner of agriculture and labor, stating the number of pounds of starch manufactured under the provisions hereof, which report shall be duly verified by affidavit.



## ARTICLE 16. --- NOXIOUS WEEDS.

§ 1683. **Noxious weeds, manner of destroying.** Each person shall destroy upon all lands which he shall own or occupy, all weeds of the kind known as Canada thistle, cocklebur, mustard, wild oats, French weed and Russian cactus, at such time and in such manner as shall effectually prevent their bearing seed. The time and manner of destroying such weeds shall be prescribed by the board of county commissioners, and the same shall be published at least two weeks in some newspaper in the county, not less than two weeks before the time so prescribed; and if there is no newspaper published in the county then written notice of the same shall be posted, the same as election notices are posted, in lieu of such publications. § 1, c. 91, 1891.  
am'd.

§ 1684. **Decision to be published.** It shall be the duty of the board of county commissioners, at its regular meeting in April of each year, to determine the time and manner of destroying such noxious weeds, and to cause its determination to be published as provided for in the last section. It shall also cause to be mailed to the chairman of each board of township supervisors and to each overseer of highways and road supervisor in the county, a copy of its proceedings. § 2, c. 91, 1891.

§ 1685. **Road supervisors to destroy weeds. Obtain judgment.** Whenever any individual, firm, or corporation owning or occupying any lands within this state shall neglect or refuse to comply with the provisions of this article for more than ten days after the time prescribed by said board of county commissioners, then it shall be the duty of the overseer or road supervisor, as the case may be, to proceed forthwith to destroy the same in the manner provided for said destruction by the board of county commissioners; it shall also be the duty of such overseers or road supervisors to destroy all such noxious weeds that may grow on the highways and railroad right of ways and school sections and timber culture claims of his road district, and for so doing such overseers or road supervisors shall receive such compensation, payable out of the township treasury or county treasury, as the township board of supervisors or board of county commissioners, upon presentation of his account therefor, verified by oath and specifying by separate items the charges on each piece of land, shall deem reasonable, and the respective accounts, so far as correct, shall be allowed and paid by the township board or board of county commissioners, and upon being so allowed the board of supervisors or board of county commissioners shall take proper proceedings in the district court of the county in which said land is situated to obtain a judgment against the owner of each of said tracts of land for the amount expended on said lands under this article for the destruction of noxious weeds thereon, to pay the expenses of said destruction and all costs that have since accrued under this article and in obtaining judgment therefor, which judgment shall be declared a first lien on said land to be enforced either by sale or as taxes on the lands are collected, at the option of the court. § 1, c. 83, 1895.

§ 1686. **Penalty.** Whenever any overseer of highways or road supervisor shall neglect or refuse to comply with the provisions of this article after having received notice as provided for herein, he shall be subject to a fine of fifty dollars, and it is the duty of the state's attorney to enforce the provisions of this article. § 4, c. 91, 1891.

## ARTICLE 17. — RUSSIAN THISTLE AND FRENCH WEED.

- § 1, c. 102, 1895.    **§ 1687. Russian thistle and French weed nuisances.** The noxious weeds known as Russian thistle and French weed wherever found in the state, are declared to be a public nuisance, and it is the duty of each person or corporation owning, occupying, leasing or having any lien or interest in any land, without regard to the use to which such land is put, to destroy the same before it goes to seed, or if it shall have gone to seed, completely to destroy the same by burning it, before any plant shall have broken off or scattered its seed.
- § 2, c. 102, 1895.    **§ 1688. Duty of officers to destroy. Penalty.** Any overseer or supervisor of roads, any sheriff, constable or officer of any organized township, or any mayor or police officer of any incorporated city, town or village, who shall know of the existence of any such Russian thistle or French weed within their respective jurisdictions, who shall fail or neglect to destroy the same, or cause them to be destroyed, or make complaint in writing to the commissioner whose duty it is under the provisions of this article, to cause the destruction of such thistle and French weed, shall be guilty of malfeasance in office and upon conviction of such failure or neglect shall be subject to a fine of not less than twenty-five nor more than fifty dollars.
- § 3, c. 102, 1895.    **§ 1689. County commissioners' duty.** Each county commissioner shall be charged with the duty of personally superintending and enforcing the provisions of this article within his commissioner district.
- § 4, c. 102, 1895.    **§ 1690. Executive relief board.** There is hereby constituted a board of commissioners which shall be designated the "executive relief board," which board shall consist of the governor and two competent persons whom he shall appoint to hold their offices until the governor shall appoint their successors. Said commissioners shall acquire all necessary and practicable information for the purpose, and shall determine the general methods and seasons for the destruction of Russian thistle and French weed, prior to June 1, 1895. They shall cause their general determinations, with such rules and regulations as they may deem wise to be printed, and at least twenty copies of the same shall be sent to the auditor of each county in the state. They shall also cause a copy of such determinations, rules and regulations to be sent to each newspaper in the state. They may determine upon special methods and seasons for such destruction when in their judgment it shall seem best, and such special determinations and the rules and regulations which they may prescribe for their execution shall be printed or not as they may deem wise, and notice of them shall be given only as shall be necessary in each case. They may at any time change or modify such determinations, rules and regulations, and in such case they shall send to the county auditors printed copies of such changed and modified determinations, rules and regulations; and all the determinations, rules and regulations so established by such commissioners, shall have the full force of law. The board of commissioners hereby established shall control and direct any and all operations contemplated in any appropriation which may be made, and of the expenditure of any money which may come into the possession of the state from any such appropriation, from taxes as provided in section 1703, or from any other source, to be used for the destruction of Russian thistle and French weed. They shall file

itemized vouchers for such expenditures with the state auditor, who shall issue his warrants upon the state treasurer for the amount of such vouchers. No claim shall be allowed and no money paid out of the state treasury, or out of any county treasury for any expense of destruction of Russian thistle and French weed not done in accordance with the determinations, rules and regulations which such board of commissioners shall prescribe. If the executive relief board shall ascertain that for twenty days after the time prescribed by the rules and regulations of said board for the destruction of Russian thistle and French weed, the work of such destruction has, in any place not been in good faith begun and vigorously prosecuted, then said board shall direct the county commissioner within whose commissioner district such failure to so begin and so prosecute such work exists, to begin such work at once and vigorously to prosecute and complete the same. Such direction shall specify the particular facts constituting such failure and if for five days after such direction such county commissioner shall fail or refuse to begin in good faith and to prosecute vigorously such work, then said board may file in the office of the auditor of such county a copy of such direction with proof of service thereof, and may thereupon proceed themselves to cause such work to be done, and shall audit the expense of such work and issue vouchers for such expense to the persons employed to perform such work, which vouchers may be presented to such county auditor, and he shall thereupon issue warrants to the treasurer of such county for the amounts of such vouchers payable to the holders thereof out of the road fund of such county. Such direction of said board shall be in writing, and may be served personally or by registered mail; proof of service in the former case shall be by affidavit attached to a copy of such direction, and in the latter by affidavit of mailing attached to a copy of such direction and accompanied by the post office registry receipt; provided, that the expense of any such destruction which the executive relief board may cause to be so done on any lands or fire breaks as specified in section 1697, shall be a charge upon the state, and for the payment of such expenses by him, the treasurer of such county may retain a sufficient amount of money in his next settlement with the state treasurer in the manner provided in section 1697.

**§ 1691. Owners or occupants of land to destroy.** Any owner or occupant of any land in any commissioner district in any county, or any citizen of such district, may make complaint to the county commissioner of such district, by written notice of the existence of Russian thistle and French weed on any land or lands, describing the same, in the district of such commissioner, such thistle or French weed not being on any highway, roadway or trail in use by the public. Thereupon such county commissioner shall at once notify the occupant of such land, in writing, if such land is occupied, and in any case such county commissioner shall require the county auditor of such county at once to notify in writing the owner of such land, if his address is filed with such county auditor, or if it can be ascertained, of the existence of such thistle or French weed upon such land; and such notice served on such owner shall be sent by registered mail, and all post office receipts therefor shall be filed and preserved by such county auditor. If no such service of notice on the owner can be had, then notice shall be published one week in some newspaper published in such county; or if none is published,

§ 5, c. 102, 1895.

then a copy of such notice shall be conspicuously posted ten days on the front door of the court house of such county. It shall then become the duty of such occupant or owner, completely to destroy such thistle and French weed on such land, but not on any highway, roadway or trail in public use, in the manner and season which shall be determined as provided in section 1690. If within ten days after completion of service, publication or posting of notices aforesaid, but not earlier than ten days after the date so fixed as provided in section 1690, as the beginning of the season for destroying Russian thistle and French weed, the destruction of such Russian thistle and French weed on such land has not been completed, or begun and vigorously prosecuted, such county commissioner shall at once cause such thistle and French weed to be destroyed in the manner provided for in section 1690; and he shall verify the expense thereof by an itemized statement to the county auditor and the county auditor shall, at the meeting of the board of county commissioners, as provided in section 1702, lay the same before such board, and the amount which in any such case shall be allowed by such board of county commissioners shall be entered upon the tax list as therein provided, and such county auditor shall then issue his warrant for such amount to be paid out of the road fund of the county.

§ 6, c. 102, 1885.

**§ 1692. Duty of railroads to destroy thistles on right of way.** Any owner or occupant of any land in any commissioner district, or any citizen of such district, may make complaint to the county commissioner in charge of that district, by written notice, of the existence of Russian thistle or French weed on any part of any railroad right of way lying in such district, designating as near as may be the locality complained of. Thereupon the county commissioner shall require the county auditor of such county at once to notify the division superintendent having in charge such right of way in such district for the railroad company operating the line of railway to which such right of way appertains, of the existence of such thistle or French weed on such right of way, and such notice served on such superintendent shall be sent to him by registered mail, addressed to the post office situated in the city, village or town in which his office may be located, and all postoffice receipts therefor shall be filed and preserved by such auditor. It shall then become the duty of such railroad company completely to destroy such thistle and French weed on such right of way in the manner and season which shall be determined upon as provided in section 1690. If within ten days after the service of such notice, the destruction of the thistle or French weed complained of, the existence of which has been made, has not been completed, or begun and vigorously prosecuted, then it shall be the duty of such county commissioner to cause such thistle or French weed to be destroyed on such right of way in the time and manner provided in section 1690, and such county commissioner shall certify an itemized statement of the expenses thereof to the county auditor in writing, and the county auditor shall, at the meeting of the board of county commissioners as provided in section 1702, lay the same before such board, and the amount which, in any case, shall be allowed by such board of county commissioners for destruction of Russian thistle or French weed on such right of way within such county shall be entered upon the tax list as therein provided, and such county auditor shall issue his warrant for such amount, to be paid out of the road fund of such county.

**§ 1693. Road work used in destruction, how.** Any owner or occupant of land in any commissioner district, or any citizen of such district, may make complaint by written notice to the county commissioner of such district, of the existence of Russian thistle and French weed, in any highway, road, way or trail in public use, whether the same is a public highway or not, designating as near as may be the locality complained of, and it shall then be the duty of such county commissioner to cause such thistle and French weed to be destroyed in the manner hereinbefore provided; and such county commissioner shall first require the overseer or supervisor of highways within the proper road district, to cause so much as may be necessary of the work which, thereafter, in that year may be done in payment of road taxes, in such road district to be expended in the destruction of such thistle or French weed; and if such work in such highway or road district, so done by all persons subject to road poll tax, shall not suffice for the complete destruction of such thistle and French weed then such county commissioner shall employ such further means as may be necessary to cause such thistle and French weed to be completely destroyed. And such county commissioner shall certify the expenses thereof by an itemized statement to the county auditor, and the county auditor shall, at the meeting of the board of county commissioners as provided in section 1702, lay the same before such board, and the county auditor shall issue his warrants for such amount when approved by the board of county commissioners, to be paid out of the road fund of such county. § 7, c. 102, 1895.

**§ 1694. Complaint made to sheriff on failure of commissioners to act.** If after complaint is made according to the provisions of sections 1691 and 1692, any county commissioner shall fail to serve notice for the destruction of the Russian thistle and French weed as by this article required of him, within five days after such complaint is made, then the party making such complaint may make complaint to the sheriff of such county by written notice, and such notice shall recite the fact that notice has been served upon such commissioner and that no action has been taken by him, and it shall then become the duty of such sheriff to proceed in all particulars as required of the county commissioner by this article. § 8, c. 102, 1895.

**§ 1695. Publication of notice.** If after the complaint of the existence of Russian thistle or French weed made according to the provisions of sections 1691 and 1692, the commissioner shall have duly served notice for the destruction of such thistle and French weed as by this article required of him, and if within fifteen days after completion of notice of publication or posting of notice, as provided by sections 1691 and 1692, but not earlier than ten days after the date so fixed as provided in section 1690, as the beginning of the season for destroying said thistle and French weed the destruction of the thistle and French weed on such right of way or such land has not been completed, or begun and vigorously prosecuted by the county commissioner as provided in this article, then the party making such complaint may serve written notice on the sheriff of such county, reciting the fact of such failure to destroy or cause to be destroyed such thistle and French weed, and it shall then become the duty of such sheriff to proceed in all particulars for the destruction of such thistle and French weed as required of the county commissioner by this article. § 9, c. 102, 1895.

§ 10, c. 102, 1895.

**§ 1696. Duty of sheriff in cases of noncompliance with law.** If after the complaint of the existence of Russian thistle and French weed according to the provisions of section 1693, any county commissioner shall fail to begin and vigorously prosecute the destruction of such Russian thistle and French weed as by this article required of him within five days after such complaint has been made, on any highway, road, way or trail in public use, concerning which such complaint has been made, then the party making such complaint may complain to the sheriff of such county by written notice, such notice reciting the fact that due notice has been served upon such county commissioner, but that no action has been taken by him, and it then shall become the duty of such sheriff to proceed in all particulars for the destruction of such thistle and French weed as required of the county commissioner by this article.

§ 11, c. 102, 1895.

**§ 1697. State lands. Duty of commissioners to examine.** It shall be the duty of every county commissioner in his commissioner district to examine or cause to be examined all leased lands owned by the state and all school lands and all broken lands, the title to which yet remains in the United States, and all fire breaks which have been made without warrant or license on the part of the owner of the land on which such fire breaks exist, and, if Russian thistle and French weed are found on any such lands or fire breaks, they shall be destroyed under the direction of such county commissioner, and he shall certify the expense thereof by an itemized statement to the county auditor of such county, and such county auditor shall at the meeting of the board of county commissioners as provided in section 1690, lay the same before such board, and such county auditor shall issue his warrants for such amount when approved by such board of county commissioners, to be paid out of the road fund of such county, and such expense so certified shall be a charge upon the state, and the amount thereof shall be withheld by the county treasurer in his next payment to the state, by remitting to the state treasurer the itemized vouchers for such expense in lieu of the money withheld; such itemized vouchers shall be duly certified by the county auditor as approved by the board of county commissioners; provided, that the county commissioner who shall discover or be informed that Russian thistle and French weed exist on any land in his commissioner's district, the title to which land is in the United States, but which land is occupied, held or cultivated by any person, shall cause notice to be served on such person to destroy such thistle and French weed in the manner provided for an owner of land in section 1691. And thereafter such persons shall be subject to the same obligation as provided in section 1691, the same as if he owned such land, and if he shall refuse or neglect to destroy such thistle and French weed, and if such thistle and French weed are destroyed by and under the direction of such county commissioner, then he shall be assessed with a personal tax for the expenses of so destroying such thistle and French weed as provided in section 1702. Such person shall also be subject to all the provisions and penalties of section 1699.

§ 12, c. 102, 1895.

**§ 1698. U. S. lands. Whose duty to keep clear of weeds.** Every county commissioner shall ascertain by inquiry and investigation if Russian thistle and French weed exist on any highway, road, way or trail in public use, or any part thereof in his commissioner district. If he shall ascertain that such thistle and French weed so exist he shall notify any overseer or supervisor of

highways or roads, whose highway or road district lies in whole or in part in any such commissioner district, and within which highway or road district any such thistle and French weed exist on any such highway, road, way or trail in public use, to notify all persons who are legally required or permitted to work out any road taxes in that year, that such work shall be done, so far as such county commissioner shall determine to be necessary, under the direction of such overseer or supervisor, in the destruction of such Russian thistle and French weed in the time and manner fixed as provided in section 1690, and if such persons or any of them shall fail so to work out their poll taxes, then the money which they, or any of them, shall pay in lieu of such work, shall be paid by the officer into whose possession or keeping such money shall come, to the county treasurer, who shall credit the same to the road fund of such county to be expended for the purposes of this article; and when such county commissioner shall have so notified any such overseer or supervisor of highways or roads as herein provided, no work on any highway or road shall be done in payment of road taxes on any such highway or road district, and no money collected in payment of road poll taxes in any such highway or road district, shall be expended until the requirements of such county commissioner are fulfilled. No person shall be relieved hereby from any part of the road poll tax to which he shall be subject by law.

**§ 1699. Failure or refusal to destroy. Penalty for.** Any owner or occupant of any land who shall receive written notice from the county commissioner or county auditor as provided in this article to destroy any Russian thistle and French weed existing on the land owned or occupied by him, who shall fail or refuse to destroy the same within the time required by the notice served on him, in accordance with the provisions of this article, shall be deemed guilty of a violation of the provisions of this article, and when convicted thereof, shall be subject to a fine of not less than five dollars nor more than ten dollars and costs of prosecution. Upon complaint of any owner or occupant of any land or of any citizen of the commissioner district in which the land owned or occupied by the party so notified lies, it shall be the duty of the state's attorney of such county, if such complaint seems to be reasonable, to prosecute the party complained of for such failure or refusal, and the penalty imposed, if any, shall be paid to the party making such complaint. § 13, c. 102, 1895.

**§ 1700. Lands on which no thistle grows. Owners may notify.** To the end that the propagation and spread of Russian thistle and French weed may to that extent be prevented and for the purpose of this article, it is enacted that any owner or occupant of any cultivated land which is free from Russian thistle and French weed, who shall know or be informed of the existence of any Russian thistle or French weed on cultivated land within two miles of, and being the nearest cultivated lands on which Russian thistle or French weed exist to the lands which he owns or occupies, and who shall believe from the existence of such thistle or French weed that there is danger that the cultivated lands so occupied and owned by him will be seeded from such thistle and French weed if they should go to seed, may serve a written notice on the owner or occupant of the cultivated land on which such thistle and French weed exist, or if no such service can be had, then by posting such notice conspicuously on such cultivated land, warning such owner or occupant to § 14, c. 102, 189 5

destroy such thistle and French weed before they or any of them shall go to seed, and that otherwise he shall hold him responsible for any damages which in the ensuing season may result therefrom to the land which he owns or occupies. And if in such ensuing season Russian thistle and French weed are found on the lands owned or occupied by the party who has given such notice, then a failure or neglect on the part of the owner or occupant on whom such notice is served, to destroy such thistle and French weed and all of them, before they or any of them shall have gone to seed, shall be prima facie evidence that such thistle and French weed found on such lands in such ensuing season, have come from seeds produced on the lands owned and occupied by the parties so notified, and he shall be liable for damages accordingly. And inasmuch as damages of this nature must be exceedingly difficult to determine, the minimum of such damages is hereby declared to be twenty-five cents for each square acre of the land occupied by the party who has served such notice, on which any Russian thistle and French weed may be found in such ensuing season.

§ 15, c. 102, 1895.

**§ 1701. Penalty for commissioner's or sheriff's failure.** Whenever any county commissioner or any sheriff shall neglect or refuse to comply with the provisions of this article within five days after having received notice as provided in sections 1691 to 1696, inclusive, he shall be subject to a fine of fifty dollars; and it is made the duty of the state's attorney of the several counties to enforce the provisions of this article.

§ 16, c. 102, 1895.

**§ 1702. Assessments, when and how made.** On the first Wednesday of November in each year the board of county commissioners of every county in which Russian thistle and French weed have been destroyed, under the provisions of this article, shall hold a session at their usual place of meeting for the purpose of levying an assessment against the lands upon which such thistle and French weed have been destroyed, and upon any railroad company operating any line of railroad in the state, upon the right of way of which line within such county such Russian thistle and French weed have been destroyed, and a personal tax upon every person who in that year has occupied, held or cultivated any land the title to which is in the United States, upon which land any such thistle and French weed has been destroyed in accordance with this article; and it shall be the duty of every person and corporation chargeable with the duty of destroying Russian thistle and French weed upon any land or right of way within such county, to appear before such board at such time and place and show cause if any there is, why any such land or such railroad company should not be assessed. It shall be the duty of the county auditor to present at such time and place a report showing the expenses incurred or made necessary in the destruction of Russian thistle and French weed upon each tract of land, upon each right of way, and upon all highways, roads, ways and trails in public use in such county. And after the board of county commissioners shall have heard and duly considered all objections to the levy of all and any such assessments it shall be its duty to levy an assessment against every tract of land and upon every railroad company and upon every person for the amount which may be justly due on account of such expenses; and such assessments shall thereupon be extended upon the tax roll for such year as a special assessment against such land or railroad company, and the amount of such assessments shall become



due at the same time and be subject to the same penalties and interest and shall be collected in the same manner as other real and personal taxes. And the proceeds of such assessments so levied shall be paid into and credited to the road fund of such county when collected.

§ 1703. **One mill tax, how levied.** The county auditor of each county shall, at the time of making the annual assessment and levy of taxes for the purposes of this article, levy a tax of one mill on the dollar on all taxable property in such county, which tax shall be collected at the same time and in the same manner as other taxes are collected, and the proceeds of such tax shall be paid by the county treasurer of such county to the state treasurer, and shall constitute a state fund, which shall be designated the "Russian thistle and French weed fund." At the same time the county commissioners of each such county shall, in addition to such tax of one mill so levied as aforesaid, levy a tax on all taxable property in each such county, not to exceed three mills on the dollar, on all taxable property in such county, and a road poll tax of one dollar and fifty cents on each inhabitant subject to poll tax, the proceeds of such tax to be credited to the road fund of such county; provided, that if any organized township in such county shall have already levied a road tax on the taxable property in such township, not less than the tax which the county commissioners of such county shall deem and determine proper to levy in accordance with the provisions of this section, no levy by such county commissioners shall be made on any property in such township; but in such case the county treasurer shall retain for the county road fund from the proceeds of such levy made by each such township an amount equal to that which would have accrued to the county road fund if such levy had been made on the taxable property of any such township as such county commissioners should have deemed and determined proper as aforesaid, proper allowance being made for any road taxes which shall have been paid by work as provided in section 1686, and such county treasurer shall pay over any balance of such proceeds to such township, as now provided by law; and, if any such township shall already have levied a road tax less than the tax so deemed and determined proper by the county commissioners, then such county commissioners shall levy on the taxable property in any such township an additional tax sufficient to make the total road tax on such property equal to the tax they may deem and determine to be proper as aforesaid. And in such case the county treasurer shall not pay over any of the proceeds of such road taxes to such township, whether imposed by the township or by the county commissioners. Out of the sums which shall accrue to the county road fund of any county, or which may at any time be to the credit of any such road fund, shall first be paid all sums made necessary by the provisions of this article, and thereafter if there is any of said fund remaining, it may be expended as provided by law for the expenditure of county road funds. The county treasurer of each county shall pay over out of any proceeds of any road tax, which by section 2499 is provided to be paid to any incorporated city or town in such county, only such amount as shall be in excess of an amount equal to a levy of a tax on all the taxable property of such city or town which the county commissioners shall deem and determine proper to levy on the taxable property of the county for the purposes of this article.

§ 1704. **State thistle fund, what composed of.** All moneys which may be appropriated by the legislative assembly or which may

come into the possession of the state treasurer from any appropriation or from any source for the destruction of Russian thistle and French weed shall form a portion of the Russian thistle and French weed fund.

§ 19, c. 102, 1895. **§ 1705. Transfer of funds by state treasurer, how.** After the thirty-first day of December, 1895, after reserving a sufficient fund to pay all outstanding warrants drawn on the Russian thistle and French weed fund under authority of this article, then, out of any money in such fund, may be paid into any other fund as the state auditor may determine:

1. The amount of all expenses which may have accrued to the state under the provisions of section 1697.

2. Any amount which may have been appropriated by the state for the destruction of Russian thistle and French weed and which has been credited to the state thistle fund. And from such Russian thistle and French weed fund shall be paid any further payments or expenditures authorized by this law.

§ 20, c. 102, 1895. **§ 1706. State treasurer custodian of funds.** All funds which may accrue to the state Russian thistle and French weed fund shall be kept in the possession or under the control of the state treasurer until paid out as provided for in section 1690.

§ 21, c. 102, 1895. **§ 1707. Warrants draw interest, when.** All warrants legally drawn on the road fund of any county in accordance with the provisions of this article shall be paid, or, in case of nonpayment for want of funds, shall be registered and bear interest, and shall be payable in the order of registration the same as other warrants drawn on the road fund of such county, and shall be available in such county for the payment of any road taxes, or of any taxes levied on any lands, or on any railroad company, or of any personal tax, levied under the provisions of section 1702. All warrants legally drawn on the state Russian thistle and French weed fund, if not paid for want of funds, shall be registered and bear interest at the rate of seven per cent per annum and shall be available in payment of any taxes due or that may become due to the state under the provisions of this article.

§ 22, c. 102, 1895. **§ 1708. Payments secured from United States, how.** It shall be the duty of the state auditor to tabulate and report to the governor on or before the thirty-first day of December in each year, the several amounts expended by the state under the provisions of this article for the destruction of Russian thistle and French weed upon lands belonging to the United States. Thereafter it shall be the duty of the governor and of the attorney general to take such steps as they may deem proper to secure the payment of the same from the United States.

§ 23, c. 102, 1895. **§ 1709. Jurisdiction of justices of the peace.** Justices of the peace shall have concurrent jurisdiction with the district court to try and determine all prosecutions for the violation of any of the provisions of this article. Any owner or occupant of any land, or any citizen of any commissioner district in any county may make complaint of any violation of the provisions of this article occurring within such commissioner district, and thereupon it shall be the duty of the state's attorney for such county, if such complaint shall be reasonable, to prosecute the party complained of for such violation and, upon conviction being had, one-half of the amount of any fines imposed shall be paid to the party bringing such complaint, except as provided in

sections 1699 and 1700; and the remaining half of such fines shall be paid into the road fund of such county.

**§ 1710. Preference given in employment, to whom.** § 24, c. 102, 1895.  
Every county commissioner, in discharging the duties required of him by this article, shall, as fully as he is able, protect every person and all property against unnecessary expense and unjust burdens. Whenever it shall be necessary to employ any person for the destruction of Russian thistle and French weed, preference shall be given, all things being equal and probable expense no greater, to occupants of lands contiguous to the lands on which such destruction is to be prosecuted. There shall be allowed for men and teams employed in such destruction no greater per diem than is now established by law for working out road taxes; persons so employed who fail to carry out their operations to the thorough destruction of the thistle and French weed where employed, or in exercise of industry as in other employments, shall forfeit all pay, proof of such failure being made before the county commissioners sitting as an auditing board as provided in section 1702. No pay shall be allowed or credit given any owner or occupant of land for destroying Russian thistle and French weed on land owned or occupied by him unless by direction of the executive relief board. Any public officer who shall discriminate in favor of or against any person or persons, or who shall willfully incur or permit others acting under him to incur grossly unnecessary expense in the destruction of Russian thistle and French weed under the provisions of this article, shall be deemed guilty of a public offense and, upon conviction of any such offense, shall be subject to a fine of not less than one hundred dollars nor more than two hundred dollars, and become disqualified for his office; and such office shall be and remain vacant until his successor is elected or appointed thereto as provided by law; and pending an appeal the office shall remain vacant unless filled by appointment.

**§ 1711. Penalty for planting or cultivating.** It is hereby § 25, c. 102, 1895.  
made unlawful to plant, cultivate or purposely grow any Russian thistle or French weed in the state, whether for any supposed or experimental utility, for ornament, as a curiosity or for any purpose whatever; and every person so fostering or permitting the growth of any such thistle and French weed shall be subject to a fine of not less than five dollars nor more than fifty dollars; provided, that the provisions of this section shall not apply to any act or operation done under the authority of the state, of the board of commissioners provided for in this article or of the faculty of the agricultural college of North Dakota for purposes of scientific investigation.

**§ 1712. Unlawful to plow fire breaks, when.** To the end § 26, c. 102, 1895.  
that the propagation and spread of Russian thistle and French weed may to that extent be prevented, and for the purposes of this article, it is hereby made unlawful to plow fire breaks in any county that is infested with Russian thistle and French weed, on any land except with the consent, previously obtained of the owner of such land. And such owner shall then be liable to all the provisions of this article for the destruction of Russian thistle and French weed on such fire break. Any person plowing any such fire break in any county aforesaid on land other than his own without the consent, previously obtained, of the owner of such land, shall be subject to a fine of not less than ten dollars nor more than fifty dollars, for each half mile or part of half mile in length of such fire break. He shall also be

liable to all the provisions of this article for the destruction of thistle and French weed on such fire break. He shall also be liable to the owner of such land for trespass and for damages, and may be sued in any court of competent jurisdiction.

§ 27, c. 102, 1895.

**§ 1713. Expense incurred, amount and how.** The board of commissioners created under section 1690 are authorized to incur such expenses as in its best judgment shall seem necessary to an intelligent and efficient discharge of its duties. It shall file itemized vouchers for such expenses with the state auditor, who shall issue his warrants for the respective vouchers, which warrants shall be paid by the state treasurer out of any money to the credit of the Russian thistle and French weed fund.

§ 28, c. 102, 1895.

**§ 1714. Pay of state commissioners, how drawn.** Each member of the board of commissioners created by section 1690 shall be entitled to his actual traveling expenses while in the discharge of his duties in accordance with the provisions of this article, and to three dollars for each day he may be absent from home for hotel expenses, and to all other legitimate expenses incurred in the discharge of his duties according to the determination of the board, and the provisions of this article. He shall from time to time file itemized vouchers for such expenses with the state auditor, who shall issue his warrants therefor, which warrants shall be paid by the state treasurer out of any money to the credit of the state Russian thistle and French weed fund.

§ 29, c. 102, 1895.

**§ 1715. Pay of county commissioners and sheriff, amount of.** Every county commissioner shall receive for every day actually spent in the performance of his duties under this article, the same compensation to be paid in the same manner, as he is entitled to for the discharge of the other duties of his office; and any sheriff, if the duties of this article shall devolve upon him, shall receive the same compensation, to be paid in the same manner as provided for the county commissioner.

§ 30, c. 102, 1895.

**§ 1716. County auditors furnish blanks. Penalty for failure.** It shall be the duty of the county auditor in each county to prepare blank forms of notice for use in accordance with the provisions of this article, and such forms shall, without charge, be furnished to parties desiring, or whose duty it shall become, to make use of them. And it shall be the duty of the auditor of each county to serve all notices which may be required of him by any county commissioner in such county, in accordance with the provisions of this article, in every case making diligent search to ascertain the correct post office address of the parties on whom such service shall so be required to be made; and any county auditor who shall fail or neglect to discharge any duty made incumbent on him by this article, shall be subject to a fine of not less than ten dollars nor more than twenty dollars to be enforced as provided for other penalties in this article.

#### ARTICLE 18. — FIRE ESCAPES.

§ 1, c. 58, 1883.  
am'd.

**§ 1717. Hotel owners must provide fire escapes.** The owners and proprietors of all hotels, factories, public halls, offices and other buildings in this state, over two stories in height, are required to provide safe and suitable fire escapes from all rooms above the second story of such hotel or other building, and when rooms have no outside windows there shall be affixed to the windows in the

hallway leading from such room at least three fire escapes in each window as herein directed. Such fire escape shall consist of at least one good cotton rope not less than one inch in diameter, to be securely and permanently fastened with iron rings or bolts at a point immediately outside or inside of at least one window in each room above the second story; and such rope shall be of sufficient length to reach to the ground; provided, that if the owner or proprietor of any such buildings shall provide good and sufficient iron ladders extending from each of the windows herein mentioned, and from points immediately adjacent to each of such windows, to the ground, securely and permanently fastened to such building, or shall have the fire escape ladder in each of the rooms and hall windows aforesaid, of sufficient length to reach from such windows to the ground, he will be deemed to have complied with the requirements of this section.

§ 1718. **Penalty for neglect.** Any person violating any of the provisions of the last section shall be punished by a fine of not less than twenty-five dollars for each room in such hotel or other building not provided with fire escapes as aforesaid. § 2, c. 53, 1883.

#### ARTICLE 19.—DOORWAYS IN PUBLIC BUILDINGS.

§ 1719. **Doors of public buildings, construction of.** All doors of ingress and egress in all buildings used for public assemblages of any character in this state, including school houses, churches, theaters, public halls, city halls, court houses, factories, hotels and all other public buildings, wherein numbers of persons are employed or are in the habit of meeting together for any purpose, shall be so constructed as to open and swing outward, and doorways shall not be less than four feet in width with proper landings and stairways of at least equal width. § 1, c. 54, 1887.

§ 1720. **Who shall comply with this article.** It shall be the duty of all persons owning or having charge of such buildings, including trustees, boards of directors and boards of education, to comply with the provisions of the last section within six months after the same shall take effect; but nothing herein shall be construed to require a change in the width of existing stairways and doorways, and this article shall not apply to churches and school houses not within the limits of any city or village. § 2, c. 54, 1887.

§ 1721. **Penalty for failure to comply.** Any person failing to comply with the provisions of this article, or who shall build, maintain or permit to be used any such building contrary to the provisions hereof shall be deemed guilty of a misdemeanor. § 3, c. 54, 1887.

#### ARTICLE 20.—WEIGHTS AND MEASURES.

§ 1722. **Bushel consists of how many pounds.** A bushel of each of the articles enumerated in this section shall consist of the number of pounds avoirdupois respectively affixed to each: § 1, c. 37, Pol. C.

Barley, forty-eight pounds.

Beans, sixty pounds.

Bran, twenty pounds.

Buckwheat, forty-two pounds.

Beets, sixty pounds.

Broom corn seed, thirty pounds.

Corn, shelled, fifty-six pounds.

Corn in the ear, seventy pounds.  
 Clover seed, sixty pounds.  
 Coal, stone, eighty pounds.  
 Flax seed, fifty-six pounds.  
 Lime, eighty pounds.  
 Oats, thirty-two pounds.  
 Onions, fifty-two pounds.  
 Potatoes, Irish, sixty pounds.  
 Potatoes, sweet, forty-six pounds.  
 Peas, sixty pounds.  
 Rye, fifty-six pounds.  
 Salt, eighty pounds.  
 Turnips, sixty pounds.  
 Timothy seed, forty-two pounds.  
 Wheat, sixty pounds.

§ 2, c. 37, Pol. C.    § 1723. **Ton of hay, cubic measure.** A ton of hay shall consist of two thousand pounds; or by measurement, three hundred and forty-three cubic feet after the same shall have been stacked thirty days, or such time as may be agreed upon between the parties.

§ 3, c. 37, Pol. C.    § 1724. **Perch of stone.** A perch of mason work or stone shall consist of twenty-five feet, cubic measure.

§ 1, c. 151, 1885.    § 1725. **Standard of weights and measures kept by state treasurer.** The state treasurer shall procure and keep in his office the following standards of weights and measures, which shall conform in every particular to the United States standards of weights and measures: One bushel, one half bushel, one peck, one half peck, one quart, one wine gallon, one wine half gallon, one wine quart, one wine pint, one wine gill; such measures shall be made of copper or other suitable and substantial material; also one surveyor's chain thirty-three standard feet in length, one yard measure, one foot measure and one inch measure; also one one hundred pound weight, one fifty pound weight, one twenty-five pound weight, one ten pound weight, one one pound weight, one half pound weight, one quarter pound weight, one one eighth of a pound, one one sixteenth of a pound or one ounce weight; one set of apothecaries' weights from one pound to one grain, one set of troy weights from one pound to one grain; besides such other scales, beams and balances as shall be necessary to test other weights by these standards; which measures, weights, scales, beams and balances are hereby declared to be the legal standards of weights and measures for this state. Such treasurer shall be charged with the custody and be accountable to the state for the proper use and care of the same. Such standards shall be used only for testing the standards provided for in the next section, and such treasurer shall keep a record of all county weights, measures, beams and balances, marked and tested by him.

§ 2, c. 151, 1885.    § 1726. **County commissioners may purchase duplicates.** The board of county commissioners of each county is authorized to purchase such duplicates of the above enumerated weights and measures as it deems necessary for the use of its county in carrying out the following provisions of this article, which duplicates shall be paid for by the county and be delivered to the sheriff, who shall be the sealer of weights and measures for the county, and may appoint such deputies as he may deem necessary in different parts of the county, who shall possess the same powers and perform the same duties under this article as the sheriff, and may furnish such deputies

with such duplicates as the board of county commissioners may provide for their separate use, or may allow them to use those provided for himself.

§ 1727. **Bond.** Every such sealer and deputy sealer of weights and measures shall give a bond to the county not less than double the cost of the duplicates furnished him, conditioned that he will safely keep and care for the same, and will turn them over to his successor in good condition, and upon such bond shall take and subscribe the oath required of other county officers. § 2, c. 151, 1885. am'd.

§ 1728. **Sheriff to test weights and measures.** The sheriff as ex officio sealer of weights and measures shall in the month of July in each year test by his duplicates all scales, weights and measures, found by him in his county, used as provided in the next section, and shall give to the person in charge of the same a certificate of the correctness thereof if found to be correct, and if found to be incorrect he shall cause the same to be made correct if it can be done, and if not, he shall mark the same "condemned." He shall keep a record of all such certificates issued by him and of all his transactions under this article. For testing any measure, weight or scale as provided in this section, he may collect from the owner or person in charge the sum of fifty cents; provided, that when any scale is tested, the certificate shall cover the weights used with the scale, and the sealer shall not be allowed to charge more than fifty cents for testing each scale and its several weights. § 3, c. 151, 1885.

§ 1729. **County commissioners to prescribe regulations.** The board of county commissioners of each county shall prescribe by resolution, what kinds and quantities of goods, wares, merchandise, grain, live stock and produce may be sold or exchanged with or without the use of the standard weights and measures and tested scales, and may change such resolution at any regular meeting, which resolution shall be entered in the minutes of its meeting and published as part of its proceedings; and it shall be unlawful for any person, firm or corporation by themselves or representatives to use any scale, weight or measure for computing the quantity of any goods, wares, merchandise, grain, live stock or produce to be bought or sold by him or them in any greater quantity than that allowed by the board of county commissioners, without having the same conform to the standard provided for in this article, and having the same tested as herein provided. § 4, c. 151, 1885.

§ 1730. **Complaint on violation of law. Duty of sealer.** Any person believing any dealer is violating the provisions of this article or any resolution of the board of county commissioners made by authority hereof, may make complaint in writing to any sealer or deputy sealer and deposit with him five dollars, setting forth the particular facts relating to such violation and that he has reason to believe that the same are true. Upon such complaint such sealer or his deputy shall forthwith test the scale, weights or measures respecting the matters complained of by his duplicates, and if found to conform thereto he may convert the five dollars so deposited to his own use as his fees for such services. If he finds that any of the matters complained of are true he shall return the five dollars to the complainant, and it shall be his duty forthwith to arrest the person in charge of such scale and take him before a justice of the peace in the county for trial, and upon conviction, such person, whether the owner or not, shall be guilty of a misdemeanor and punished accord- § 5, c. 151, 1885. am'd.

ingly. In all such cases the sealer or deputy sealer making the test shall make and swear to the complaint and shall be entitled to the same fees as allowed officers making arrest upon a warrant, besides the sum of one dollar for making the test. Any sealer may upon his own view of violation of the provisions of this article, or any such resolution made by the board of county commissioners of his county, by authority hereof, arrest and bring to trial such offender in the manner above provided.

§ 6, c. 151, 1885. **§ 1731. Duty of dealer to have weights, measures or scales tested.** It shall be the duty of each person, firm or corporation who desires to use any scale, weight or measure for computing the quantity of any goods, wares, merchandise, produce, grain or live stock to be bought or sold by him or them in greater quantities than those provided in the resolution of the board of county commissioners of his county, to send by mail a notice to any sealer to test such scale, weights or measures, and it shall be the duty of any sealer receiving such notice to test such scale, weights or measures, within ten days, and during the time before the same are tested, they may be used for such purpose, and the person using them shall be liable only for damages in a civil action.

§ 7, c. 151, 1885, am'd. **§ 1732. When act takes effect.** The last five sections shall take effect and be in force in each county in this state only upon a resolution to that effect being adopted by the board of county commissioners thereof.

PUBLIC SCALES.

§ 1, c. 98, 1893. **§ 1733. County commissioners to establish scales.** The board of county commissioners of any county is authorized in its discretion, when petitioned by fifteen or more residents and actual farmers of the county, to establish and locate public scales at suitable railway stations in its county.

§ 2, c. 98, 1893. **§ 1734. Care and capacity of scales.** Such scales shall be purchased by the county, and shall be under cover, and of not less than five tons' weighing capacity, and shall be the property of the county, and at all times under its control and subject to removal when the county commissioners shall so require.

§ 3, c. 98, 1893, am'd. **§ 1735. Appointment of weighmasters. Bond.** The board shall also appoint at each place where it establishes such scales, a public weighmaster, who shall have the custody and care of such property, and who shall give a bond in the sum of five hundred dollars, conditioned for the safe-keeping of the same and for the faithful and impartial discharge of his duties.

§ 4, c. 98, 1893, am'd. **§ 1736. Weighmasters to keep record.** Each public weighmaster shall keep a stub record of all weighing, which record and the receipt of such weighmaster shall show for whom property was weighed, and shall, with such receipt, constitute prima facie evidence of the facts therein contained.

§§ 5, 6, c. 98, 1893. **§ 1737. Compensation. Removal.** Such public weighmasters shall receive such compensation and shall be governed by such rules and regulations as may be adopted by the board of county commissioners, and may be removed at any time by such board for cause.



## ARTICLE 21. — LICENSES.

## PEDDLERS AND AUCTIONEERS.

§ 1738. **When peddling unlawful.** It shall be unlawful for any person to travel from place to place in any county within this state for the purpose of carrying to sell, or exposing or offering for sale, barter or exchange at retail, any goods, wares, merchandise or other articles of trade whatsoever, except as hereinafter provided, whether by sample or otherwise, and whether such goods, wares, merchandise, notions or other articles of trade whatsoever, are delivered at the time of sale, or to be delivered at some future time, unless such person shall have first obtained a license as a peddler as hereinafter provided, but this article shall not prevent any manufacturer, mechanic, nurseryman or farmer from selling his work or production by himself, or any patent right dealer from selling his own invention, or to prevent any person from selling or offering to sell at wholesale to dealers only, any goods, wares or merchandise whatsoever, or to prevent train boys from selling to persons traveling on railroad trains, or to prevent any person who by reason of being blind or deaf and dumb is incapacitated for hard manual labor, from selling goods, wares or merchandise on foot or with one horse and wagon, without a license. § 1, c. 142, 1890. am'd.

§ 1739. **License to peddle, how obtained.** Each person desiring to obtain a license as a peddler shall make application in writing to the county auditor of the county in which he desires to peddle, which application shall be signed by the applicant, and shall state in what manner the applicant desires to travel as a peddler, whether on foot or with one or more horses or other beasts of burden. § 2, c. 142, 1890. am'd.

§ 1740. **License fee.** Each applicant before he shall be entitled to such license shall pay into the county treasury of the county where such application is made the following fees: If for a license to travel on foot, including railroads or other public conveyance, the sum of fifteen dollars; if for a license to travel and carry his goods with a single horse or other beast carrying or drawing a burden, the sum of twenty-five dollars; if for a license to travel with a vehicle or carriage drawn by two or more horses or other animals, the sum of forty dollars. § 3, c. 142, 1890. am'd.

§ 1741. **License, how issued.** The county auditor, upon the filing of such application together with the treasurer's receipt for the proper license fee, shall grant to such applicant a license under his official seal, authorizing such licensee to travel and pursue the business in the manner stated in his application, for the term of one year; provided, that all such licenses shall expire on the thirtieth day of April of each year, and the amount to be charged for each license shall be reckoned proportionately for that part of the year from the first day of the month in which such license is issued to the first day of May following; but no license shall be issued under this article for a less sum than five dollars; provided, further, that the county auditor may issue a like license without the payment of any license fee to any applicant who shall prove to the satisfaction of such auditor that he served as a soldier in the United States army or navy during the late Rebellion, and was thereby disabled and rendered unfit for hard manual labor, and was honorably discharged from such United States army or navy. § 4, c. 142, 1890.

§ 5, c. 142, 1890. **§ 1742. Penalty for violation.** Any person found traveling or trading in any county in this state contrary to the provisions of this article, or who shall refuse to produce his license for examination when requested so to do by any resident or officer of the county in which such person shall be traveling as a peddler, shall be deemed guilty of a misdemeanor, and upon conviction is punishable by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail where the offense was committed, not exceeding thirty days, or by both.

§ 6, c. 142, 1890. **§ 1743. Act not to apply to incorporated towns or cities.** Nothing contained in this article shall be so construed as to impair, interfere with or take away any of the existing rights or authority of incorporated cities, towns and villages to license and regulate peddlers within their incorporated limits.

EXPRESS COMPANIES.

§ 1, 2, c. 136, 1890. **§ 1744. License, how procured.** Each express company doing an express business within this state shall, on or before the first day of August of each year, procure a license from the state auditor, which license shall contain the name, population and license fee of every station, city and village wherein such express company is doing business. The words "express company" shall mean any person, company or corporation doing an express business.

§ 3, c. 136, 1890. am'd. **§ 1745. License fee, how determined.** The state auditor shall charge and the state treasurer shall collect from each express company doing business within this state a license fee of five dollars for each station, city and village having two hundred or less inhabitants and ten dollars license fee for each station, city or village having between two hundred and one thousand inhabitants in which they have an agent, and twenty-five dollars license fee for each and every station, city and village having not less than one thousand nor more than three thousand inhabitants, and a license fee of fifty dollars for each station, city or village having over three thousand inhabitants in which they are doing business; provided, that one or all or any number of stations, cities or villages may be named in one and the same license issued to one and the same company.

§ 4, c. 136, 1890. am'd. **§ 1746. Express companies to furnish list of towns and cities.** Each express company doing business in this state shall, on or before the first day of July, each year, make out and deliver to the state auditor a certified list of all stations, cities, towns and villages in which they are doing business in this state.

§ 5, c. 136, 1890. **§ 1747. Notice of license fee required.** The state auditor shall immediately thereupon determine the number of inhabitants of each station, city and village according to the last census, state or federal, and he shall satisfy himself of the correctness of the list sent him. He shall then notify each express company of the number of inhabitants and the license fee required for each station, city and village wherein they are doing business, and the total amount of such license fee which they are required to pay in this state, which notice shall be sent to the president, secretary or treasurer of the proper express company, as soon as possible after the first day of July of each year.

§ 6, c. 136, 1890. **§ 1748. License fee turned into state treasury.** The state auditor upon the payment of the license fee herein required shall

issue a license to the company entitled thereto; and he shall pay all license fees into the state treasury and take the state treasurer's receipt therefor, which fees shall be credited to the general fund.

§ 1749. **Books of record.** The state auditor and treasurer shall each keep a book in which shall be entered the name of each express company doing business in this state, the names of stations, cities, towns and villages in which they are doing business, and the number of inhabitants of each, also the amount of license fee collected for each station, city, town and village.

§ 7, c. 136, 1890. am'd.

§ 1750. **Penalty for violation of this article.** Any express company doing business in this state and failing to comply with the provisions of this article shall be subject to a fine of not less than two hundred dollars nor more than one thousand dollars for each offense, and no property belonging to such company shall be exempt from seizure and sale for such fine.

§ 5, c. 136, 1890.

SLEEPING CAR COMPANIES.

§ 1751. **License, amount of.** All companies, corporations or persons, other than railway corporations operating railroads in this state, shall be required to pay a license fee of one hundred dollars per annum on each sleeping car run or operated on any railroad in this state; provided, that the aggregate amount of such license fee shall not exceed the sum of five thousand dollars per annum.

§ 1, c. 137, 1890.

§ 1752. **License fee, when paid. License.** The license herein required shall be issued for one year beginning on the first day of May in each year, and it shall be the duty of such companies, corporations or persons to pay such license fee into the state treasury on or before the first day of May in each year, and the state treasurer shall issue a duplicate receipt for such payments. Such license shall be issued by the secretary of state, and he shall issue a license for each sleeping car on which the license fee shall have been paid. Such duplicate receipt of the state treasurer filed with the secretary of state, shall be evidence of the number of sleeping cars on which such license fee has been paid.

§§ 2, 3, c. 137, 1890. am'd.

§ 1753. **Statement to be filed with state treasurer.** It shall be the duty of each company, corporation or person, at the time of the payments herein required to be made, to file with the state treasurer a sworn statement which statement shall contain the number of sleeping cars with the names thereof, to be run or operated in the state by such company, corporation or person during the year for which such license is applied for, and for the purpose of ascertaining the truth of such affidavit, full power is vested in the commissioners of railroads to examine under oath, the officer or employees of such companies, corporations or persons, and if any person so examined shall knowingly or willfully swear falsely concerning the matter aforesaid, he shall be guilty of perjury. For the purpose of securing the payment of such license fee the state shall have a lien upon all property of such companies, corporations or persons, and such lien shall have priority over all other liens, claims or demands against such companies, corporations or persons.

§ 4, c. 137, 1890. am'd.

§ 1754. **License fee credited to general fund.** All money received by the state treasurer under the provisions of this article shall be by him immediately placed to the credit of the general fund of the state.

§ 5, c. 137, 1890.

§ 6, c. 137, 1890.  
am'd.

**§ 1755. Penalty for failure to comply with this article.** If any company, corporation or person operating or running sleeping cars in this state shall fail to furnish the sworn statement as aforesaid, at the time and in the manner provided by law, or to pay the license fees as herein provided, and such default shall continue during the period of thirty days, such company, corporation or person shall be subject to a penalty equal to twenty-five per cent of the license fees due under the provisions of this article, and the state treasurer shall forthwith ascertain the amount of such license fees due from such company, corporation or person as nearly as may be and shall thereupon collect such license fees together with such penalty. The amount of license fees ascertained by the state treasurer as aforesaid, shall, together with such penalties be by him entered in a book to be kept for that purpose, and such entry, when so made, shall stand in the place of the sworn statement required to be made by such companies, corporations or persons, and shall in all courts in this state, be evidence of the amount of such license fees and penalty, and of the other facts stated therein pursuant to this article.

§ 7, c. 137, 1890.

**§ 1756. Distress and sale.** At any time after the expiration of the period of thirty days, after any license has become due and payable under the provisions of this article, the state treasurer shall distrain sufficient property, goods or chattels, if found within the state, to pay such license fees and penalty, and the costs of sale, and shall immediately advertise the same for sale in at least three newspapers published in the state, stating the time when and place where such property will be sold, which notice shall be published for four weeks. Such sale shall take place at some point in this state and the proceeds of the same shall be applied to the payment of the license fees due, together with such penalties and costs. The delinquent company, corporation or person, may pay such license, penalty and costs at any time before the sale of the property distrained, and thereupon all further proceedings in connection with such distress shall cease and the property be returned to the owner thereof.

§ 8, c. 137, 1890.

**§ 1757. What sleeping cars exempt.** The provisions of this article shall apply to all companies, corporations or persons running or operating sleeping cars in this state; provided, that sleeping cars owned and operated exclusively by railroad companies doing business in this state, as a part of their railway equipment, shall be exempt from the provisions of this article.

ARTICLE 22. — LOGS AND LUMBER.

§ 1, c. 32, Pol. C.

**§ 1758. Lawful to boom logs in navigable rivers.** It shall be lawful for any person, having logs or lumber in any stream navigable for water crafts in this state, to boom such logs or lumber along the shore, and to secure the boom by means of piles driven in the stream, or by chains, ropes, timber or traverse poles made fast at points along the shore; provided, that there shall be at all times sufficient channel left clear for the free passage of any crafts or rafts usually navigating such stream.

ARTICLE 23. — OIL INSPECTION.

§ 1, c. 107, 1890.  
am'd.

**§ 1759. Inspector. Appointment. Removal.** There shall be appointed by the governor, by and with the advice and consent of

the senate, at each biennial session of the legislative assembly, a suitable person, resident of this state, who is not interested in manufacturing, dealing in or vending any illuminating oils manufactured from petroleum, a state oil inspector, whose term of office shall be two years commencing on the first Tuesday in April succeeding his appointment and until his successor is appointed and qualified. The governor shall have power to remove such person from office whenever it shall appear to him from good and sufficient evidence that such officer is guilty of malfeasance or nonfeasance in the performance of his duty, and may fill any vacancy arising from such removal, or from resignation, death or removal from the state, by a new appointment.

**§ 1760. Oils, how inspected.** It shall be the duty of such inspector to examine and test as provided by this article, the quality of all mineral or petroleum oil, or any oil, fluid or substance which is a product of petroleum or into which petroleum enters or is found as a constituent element, whether manufactured in this state or not, before the same is offered for sale or sold for illuminating purposes within the state; and such inspection shall be conducted in the following manner: The test shall be made in the Thagliabue open cup tester or commercial tester, and in using the tester the oil shall not be heated after it has attained the temperature of one hundred degrees Fahrenheit faster than three degrees a minute, and the flame of the lamp shall be so adjusted that the rise in temperature shall be as near to two degrees per minute as practicable, and the tapers used in making the test shall be such as shall give a clean flame as nearly uniform in size as is practicable, and such inspector shall give such instructions as in his judgment shall be necessary to secure uniformity in the methods of making the tests, and it shall be unlawful to use or sell any illuminating oil which on the application of a well-lighted taper, or similar flame, will take fire and burn at a temperature below that of one hundred and twenty degrees above the zero point of Fahrenheit's thermometer as shown by such apparatus, or which for any reasons whatever shall not remain clear and transparent upon being cooled to a temperature equal to that of twenty degrees above the zero point of such thermometer, or which shall deposit any solid particles of paraffine when cooled as aforesaid; and the casks, barrel or other package containing the same shall be marked "rejected" and such brands or devices as are hereinafter mentioned for approval or rejection of oils shall further contain the words "fire test," followed by numerals stating the temperature at which such oil will burn upon application of the test prescribed by this article; provided, that the inspector may use for this purpose numerals that are divisible only by ten.

§ 2, c. 107, 1890.  
§ 1, c. 77, 1893.

**§ 1761. Duties and powers of inspectors. Bond. Deputies.** The person appointed state oil inspector shall, before entering upon the duties of his office, take the oath required of other civil officers, and execute a bond to the state in the sum of five thousand dollars with sureties to be approved by the governor, conditioned for the faithful performance of his duties. The inspector when so appointed and qualified is empowered to appoint a suitable number of deputies who are not interested in manufacturing, dealing in or vending any illuminating oil manufactured from petroleum. Such deputies are empowered to perform the duties of inspection of oils and shall be liable to the same penalties as the state oil inspector,

§ 3, c. 107, 1890.

and such inspector may remove any of the deputies and appoint others in their place. Each deputy shall before entering upon the duties of his office take a like oath and execute a bond as aforesaid in the sum of not less than one thousand dollars nor more than five thousand dollars as the state inspector may direct, which bond with such sureties shall be approved by the county judge and filed in the office of the clerk of the district court of the county for which such deputy inspector is appointed. Such inspector and his deputies are empowered to and they shall upon application and the tender of the fees herein provided for, enter into any store, shop or warehouse, in which such illuminating oils are kept for sale, and inspect and test such oils, branding the barrels in which the same are contained as provided in this article. They shall upon application and tender of the fees, during business hours, inspect and test all illuminating oils standing upon a railway track in what is known as tank cars, in which it is shipped into this state, and the same shall not be drawn off into a warehouse tank or unloaded until so inspected, and no oil subject to test as herein provided shall be drawn off or removed from the tank, cask, barrel or other vessel in which it has been shipped into this state, until the same has been tested as herein provided. When such oil in the tank, railroad car, cask, barrel or other vessel in which it was shipped has been inspected as provided above, no other inspection shall be necessary, but the inspector and his deputy shall, when such oil is put into barrels, brand the same as provided in this article without charge. The inspector and his deputies shall be authorized and empowered, in case they or either of them shall find on the premises of any person, any illuminating oils which appear to be uninspected, duly to inspect the same, and shall charge therefor the fees allowed by this article, and shall have a lien on such oils so inspected for such fees, which lien may be enforced as provided in cases of liens on personal property. The decision of any deputy inspector on any barrel of oil shall be subject to appeal to the state inspector, whose decision shall be final.

§ 4, c. 107, 1890.  
am'd.

**§ 1762. Fees for inspection.** They shall be entitled to demand and receive from the owner or person calling upon them, or for whom they shall inspect, the sum of forty cents for testing and marking a single barrel; thirty cents each when not exceeding five in number; twenty-five cents each when not exceeding ten in number, and fifteen cents per barrel when the number of barrels is greater than ten submitted at one time for inspection. When the amount contained in any tank, cask or other vessel shall exceed fifty gallons, each fifty gallons shall constitute a barrel. All oils in quantities less than fifty barrels shall be inspected at a railroad or river station, unless the person requesting such inspection shall pay the inspector in advance in addition to the compensation hereinbefore provided ten cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is to be made, the distance to be computed from the place of residence of such inspector.

§ 5, c. 107, 1890.

**§ 1763. Brands to be used. Penalty for selling rejected oils.** The inspector and his deputy shall provide themselves at their own expense with the necessary instruments and apparatus, stencils, brands and stamps for testing and marking the quality of illuminating oils. The inspector shall prepare the forms of all stencils, brands and stamps provided for in this article, and also all necessary rules and regulations for inspection, not inconsistent with the provisions

of this article, and such rules and regulations shall be binding on all his deputies in the state. Any person selling or disposing of oil which has been rejected is guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not exceeding five hundred dollars or to imprisonment in the county jail for a term not exceeding six months, or to both. The inspector or his deputies may, in their discretion, without fee, at any time subject such oils to a reinspection as provided in section 1760, and if on such reinspection any of such oil shall fail to meet the requirements of this article, the inspector or deputy shall erase the brand "approved" from the barrel or other vessel containing such oil, and shall brand thereon the words "rejected for illuminating purposes," and it shall thereafter be unlawful to sell or dispose of such oil, and the person so offending shall be guilty of a misdemeanor and be subject to the penalty in this section provided.

**§ 1764. Inspector to keep record.** It shall be the duty of each deputy inspector to keep a true and accurate record of all oil inspected by him, which record shall state the date of inspection, the number of barrels as near as they can be ascertained and the name of the person for whom inspected, and he shall make a report to the state inspector at the end of each month containing a true transcript of such record, and it shall be the duty of the state inspector to keep a like record of all oils inspected by him, and at the end of each year to make a report to the secretary of state of the number of barrels so inspected and the name of the person for whom inspected, also the amount of inferior or unsafe oils for illuminating purposes, with the name of the dealer in whose hands found and from whom received by such dealer. Such record shall be open to the inspection of any person interested. § 6, c. 107, 1890.

**§ 1765. Selling uninspected oils. False brands. Penalty.** If any person sells or attempts to sell in this state any such oils to be consumed for illuminating purposes within the state, whether manufactured in the state or not, without first having the same inspected as hereinbefore provided, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and if any person shall falsely brand any cask, barrel or other vessel contrary to the provisions of this article or shall refill or use any barrel having the inspection brand thereon, without having the oil therein inspected, he is guilty of a misdemeanor, and on conviction thereof shall be subject to a fine of not exceeding five hundred dollars or to imprisonment in the county jail for a term not exceeding six months, or to both. § 7, c. 107, 1890.

**§ 1766. Penalty.** Whoever knowingly uses, sells or offers for sale for illuminating purposes any oil or product of petroleum, except as hereinafter provided, before the same has been inspected and branded as herein provided, is guilty of a misdemeanor and on conviction thereof is subject to a fine of not exceeding one hundred dollars or to imprisonment in the county jail for a term not exceeding sixty days, or to both. § 8, c. 107, 1890.

**§ 1767. Penalty for failure to destroy brand on empty cask.** Any person selling or dealing in illuminating oils produced from petroleum who sells or disposes of an empty cask or barrel which has been branded by the state inspector or deputy, before canceling, removing and effacing such brand, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any sum not exceeding five dollars for each cask or barrel thus disposed of. § 9, c. 107, 1890.

- § 10, c. 107, 1890. **§ 1768. Penalty for adulteration.** No person shall fraudulently adulterate with any substance whatever for the purpose of sale, or for use for illuminating purposes, any oil obtained from petroleum or from coal, in such manner as to render it dangerous to use, nor shall any person knowingly sell or offer for sale any oil obtained from petroleum or from coal, or from the product of either, for illuminating purposes within this state, which, by reason of being adulterated or for any reason whatever will flash at a temperature of less than one hundred degrees Fahrenheit, under the test herein prescribed. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine in any sum not exceeding five hundred dollars, or to imprisonment in the county jail for a term not exceeding six months, or to both.
- § 11, c. 107, 1890. **§ 1769. Liability for violation of this article.** Whoever knowingly sells or keeps for sale to be consumed in this state any illuminating oil manufactured from petroleum or its products, and not inspected as provided in this article shall be responsible to any person injured for any violation of the provisions of this article by himself or by any clerk or person in his employ in the sale of such oil.
- § 12, c. 107, 1890. **§ 1770. Complaints for violation.** The inspector or any deputy having knowledge of the violation of any of the provisions of this article shall enter complaint before any court of competent jurisdiction against the person so offending, and in case they neglect to enter such complaint the inspector or deputy so failing shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars and shall be removed from office.
- § 13, c. 107, 1890. **§ 1771. Inspector prohibited from dealing in oils.** No inspector or deputy shall while in office traffic directly or indirectly in any article in which petroleum or other product thereof is a constituent part, which he is appointed to inspect, and any inspector or deputy who violates any of the provisions of this section is guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding five hundred dollars and be removed from office.
- § 14, c. 107, 1890. **§ 1772. Further penalty.** Any person violating any of the provisions of this article, for which violation a penalty is not herein expressly provided, shall be deemed guilty of a misdemeanor, and shall on conviction thereof be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail for a period not exceeding six months, or by both.
- § 15, c. 107, 1890. **§ 1773. What exempt from this article.** Nothing in this article shall prevent the use of gas or vapor from oils for illuminating purposes when the oils from which such gas or vapor is generated are contained in closed reservoirs outside of the building illuminated or lighted by such gas, nor shall anything in this article be so construed as to prevent the use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole and naphtha.

## ARTICLE 24. — ABSTRACTERS.

- § 1, c. 1, 1889.  
am'd. **§ 1774. Abstracters to give bonds.** It shall be unlawful for any person, firm or corporation to engage in the business of making or compiling abstracts of title to real estate in this state, or to demand and receive pay for the same without first having for use in such business a complete set of abstract books of all instruments



filed or of record in the office of the register of deeds in and for the county in which such business is to be conducted, or in good faith engaged in the preparation of such books, and without first filing in the office of the county auditor of the county in which such business is to be conducted, a bond to the county in the penal sum of ten thousand dollars, with not less than three sureties to be approved by the board of county commissioners of such county, conditioned for the payment by such abstracters of any and all damages that may accrue to any person for whom any abstract or certificate of title is made by reason of any error, deficiency or mistake in any abstract or certificate of title made and issued by such person, firm or corporation; provided, that in counties containing less than ten thousand inhabitants, the bond herein required shall be five thousand dollars.

§ 1775. **Certificate issued, when.** When any abstracter shall have filed his bond and the same shall have been approved as above provided, he shall be entitled to receive from such county auditor a certificate reciting that such bond has been duly approved and that the same has been filed in his office, which certificate shall be valid so long as such abstracter shall maintain his sureties upon the bond, unimpaired. § 2, c. 1, 1889.

§ 1776. **Certificate of authority.** It is the duty of the county auditor after the bond of any abstracter shall have been filed and approved to issue to such abstracter on demand a certificate of authority in writing, under his hand and official seal, which shall authorize him to make such abstracts. Such certificate shall continue in force for five years, unless recalled or canceled as provided in the next section. After such certificate shall have been issued, the person, firm or corporation holding the same during the continuance of such certificate shall have full access to all records of the county during office hours; and it is the duty of any person, firm or corporation holding such certificate, to furnish an abstract of the title to any tract of land in such county when requested so to do, on payment of the fees hereinafter provided. § 2, c. 1, 1889. am'd.

§ 1777. **Additional security.** The bond herein provided for may run during the continuance of such person, firm or corporation in such abstract business, not to exceed five years, and the board of county commissioners, may at any time require such abstracter upon ten days' notice to furnish an additional bond, and show cause why the same should not be declared invalid, and the certificate thereof recalled and annulled, and if within such time such additional bond is not furnished and no sufficient reason is shown to the commissioners why the same should not be required, then the certificate issued to such abstracter shall be recalled and annulled. § 3, c. 1, 1889. am'd.

§ 1778. **Appeal.** The abstracter or complainant may have an appeal to the district court of such county from the decision of the board of county commissioners, by preserving the evidence taken at the hearing, which shall be certified up by the county auditor of such county; and such appeal shall be summarily decided by the court on such evidence, and the costs of such appeal, including the furnishing of such evidence, shall be adjudged against the defeated party. § 4, c. 1, 1889.

§ 1779. **Penalty for violation.** Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars nor less than twenty-five dollars for each offense. § 5, c. 1, 1889.

§ 6, c. 1, 1889.  
am'd.

§ 1780. **Officer's certificates to abstracts.** The provisions of this article shall not be construed to prevent the register of deeds, county treasurer, and clerks of court of the different counties from certifying to abstracts of title to lands from the records of the respective offices; but such officers shall be liable on their official bond for the faithful performance of all acts as abstracters.

§ 7, c. 1, 1889.  
am'd.

§ 1781. **Fees.** For making and certifying to abstracts under the provisions of this article, the following fees and no more shall be allowed: For the first entry on any one abstract, one dollar; for each subsequent entry or transfer on such abstract, twenty-five cents; for entry relating to taxes, twenty-five cents; for entry relating to mechanic's liens, twenty-five cents; for entry as to judgments, which may constitute liens on the property so abstracted, fifteen cents for each name certified to; for certificate to abstract, twenty-five cents. It shall be the duty of such abstracters to continue any abstract so made by them, on the payment of twenty-five cents for each entry made thereon, and twenty-five cents for the certificate of continuation thereto. Each and every deed, mortgage, affidavit, lease, lis pendens, judgment, mechanic's lien or other instrument on file or of record in the offices of the registers of deeds or clerks of court affecting the title to the real estate so abstracted shall constitute an entry; for the abstracting of estates in county courts which are not recorded in the office of the register of deeds, such fees may be charged by such abstracters as may be reasonable, but in no case to exceed five dollars for each estate.

§ 8, c. 1, 1889.

§ 1782. **Seal.** Any person, firm or corporation furnishing abstracts of title to real property under the provisions of this article, shall first provide a seal, which seal shall have stamped thereon the name and location of such person, firm or corporation, and shall deposit with the county auditor an impression of such seal before the certificate mentioned in section 1776 shall issue, which seal shall be affixed to every abstract or certificate of title, issued by such abstracters.

ARTICLE 25. — PUBLIC WAREHOUSES.

§ 1, c. 126, 1891.

§ 1783. **Commissioners of railroads, powers and duties.** The duties imposed by the provisions of this article and the powers conferred herein devolve upon the commissioners of railroads.

§ 2, c. 126, 1891.

§ 1784. **Handling, weighing and storage of grain.** It shall be the duty of the commissioners of railroads to supervise the handling, weighing and storage of grain and seed; to establish all necessary rules and regulations for the weighing of grain and for the management of the public warehouses of the state, so far as such rules and regulations may be necessary to enforce the provisions of this article or any law in this state in regard to the same, investigate all complaints of fraud or oppression in the grain trade of this state, and correct the same as far as it may be in their power.

§ 3, c. 126, 1891.

§ 1785. **Rules to be published.** The rules and regulations so established shall be printed and published by the commissioners of railroads in such manner as to give the greatest publicity thereto, and the same shall be in force and effect until they are changed or abrogated by such commissioners in a like public manner.

§ 4, c. 126, 1891.

§ 1786. **Public warehouses defined.** All buildings, elevators or warehouses in this state, erected and operated, or which may here-

after be erected and operated by any person, association, copartnership, corporation or trust for the purpose of buying, selling, storing, shipping or handling grain for profit, are declared public warehouses, and the person, association, or copartnership owning or operating such buildings, elevators or warehouses which are now or may hereafter be located or doing business within this state, whether such owners or operators reside within this state or not are public warehousemen within the meaning of this article, and none of the provisions of this article shall be construed so as to permit discrimination with reference to the buying, receiving and handling grain of standard grades, or in regard to the persons offering such grain for sale, storage or handling at such public warehouses, while the same are in operation.

**§ 1787. License, how obtained. Fee, how determined.** § 1, c. 115, 1895.

An annual state license must be obtained through the commissioners of railroads for each and every public grain warehouse in operation in this state. No license issued under this article shall describe more than one public grain warehouse, or grant permission to operate any other public grain warehouse than the one therein described. The license fee is hereby fixed at two dollars for warehouses of a capacity of less than ten thousand bushels; and three dollars for warehouses of a capacity of ten thousand bushels and over, for each public grain warehouse; provided, that before any license is issued the person applying therefor shall file with the commissioners of railroads the receipt of the state treasurer, showing that the applicant has paid into the state treasury the amount of said license fee.

**§ 1788. License to be conspicuously posted. Penalty.** § 2, c. 115, 1895.

The license thus obtained shall be posted in a conspicuous place in the public warehouse so licensed. Every such license shall expire on the first day of August next following the issuance thereof, and no license shall run for a longer period than one year. Any person or association, who shall transact the business of public warehouseman without first procuring a license as herein provided, shall on conviction, be fined in a sum not less than twenty-five dollars for each and every day such business is carried on.

**§ 1789. Bond to be filed.** The proprietor, lessee or manager of any public warehouse or elevator in this state shall file with the commissioners of railroads a bond to the state with good and sufficient sureties to be approved by such commissioners in the penal sum of not less than five thousand nor more than seventy-five thousand dollars, in the discretion of the commissioners, conditioned for the faithful performance of their duty as public warehousemen and a compliance with all the laws of this state in relation thereto. One bond only need be given for any line of elevators or warehouses owned, controlled or operated by one individual, firm or corporation. Such bond, specifying the location of each elevator or warehouse operated by such individual, firm or corporation, shall be in a sufficient amount to protect the holders of outstanding tickets. § 5, c. 126, 1891. am'd.

**§ 1790. Warehouse receipts, what to contain.** All owners of such elevators and warehouses shall, upon the request of any person delivering grain thereat, give a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bear date corresponding with the receipt of the grain, and shall state upon its face the quantity and grade fixed upon the same. All warehouse receipts shall be consecutively numbered, and no two receipts bearing the same number and series shall be issued during the same year. § 6, c. 126, 1891.

No warehouse receipt shall be issued except upon actual delivery of grain into such warehouse. No such warehouseman shall insert in any warehouse receipt issued by him any language in anywise limiting or modifying his liability as imposed by the laws of this state.

§ 7. c. 126. 1891.

**§ 1791. What storage receipts shall express.** Each storage receipt issued in this state shall expressly provide that at the option of the holder of such receipt the kind, quality and quantity of grain for which such receipt was issued shall be delivered back to him at the same place where it was received upon the payment of a reasonable charge per bushel for receiving, handling, storing and insurance charges, such charges to be fixed by express terms in the storage receipt at the time of receiving the grain at the elevator or warehouse and at the time of issuing the receipt; but no charges shall be made for cleaning grain unless such grain has been actually cleaned; and nothing in this section shall be construed to require the delivery of the identical grain specified in the receipt so presented, but an equal amount of the same grade, except wheat placed in special bins.

§ 8. c. 126. 1891.

**§ 1792. Bailment, not a sale. Insolvency.** Whenever any grain shall be delivered to any person, association, firm or corporation doing a grain, warehouse or grain elevator business in this state and the receipt issued therefor provides for the delivery of a like amount and grade to the holder thereof in return, such delivery shall be a bailment and not a sale of the grain so delivered, and in no case shall the grain so stored be liable to seizure upon process of any court in an action against such bailee, except actions by owners of such warehouse receipts to enforce the terms thereof, but such grain shall at all times in the event of the failure or insolvency of such bailee be first applied exclusively to the redemption of outstanding warehouse receipts for grain so stored with such bailee. And in such event grain on hand in any particular elevator or warehouse shall first be applied to the redemption and satisfaction of receipts issued by such warehouse.

§ 9. c. 126. 1891.

**§ 1793. Larceny. Punishment.** Each person and each member of any association, firm or corporation doing a grain, warehouse or grain elevator business in this state, who shall, after demand, tender and offer as provided in the last section, willfully neglect or refuse to deliver to the person making such demand, the full amount of grain of the grade or the market value thereof which such person is entitled to demand of such bailee, shall be deemed guilty of larceny.

§ 11. c. 126. 1891.

**§ 1794. Rates of storage.** The charges for storage and handling of grain shall not exceed the following rates: For receiving, elevating, insuring, delivering and twenty days' storage, two cents per bushel. Storage rates after the first twenty days, one-half cent for each fifteen days or fraction thereof, and not exceeding five cents for six months. The grain shall be kept insured at the expense of the warehouseman for the benefit of the owner.

§ 12. c. 126. 1891.

**§ 1795. Penalty for violation of this article.** Any person who shall knowingly cheat, or falsely weigh any wheat or other agricultural products, or who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and shall on conviction thereof be subject to a fine of not less than two hundred dollars nor more than one thousand dollars and be imprisoned in the penitentiary for a period not exceeding one year, in the discretion of the court.

## ERECTION OF GRAIN WAREHOUSES ON RAILROAD RIGHT OF WAY.

§ 1796. **Construction of warehouses on right of way.** Any two or more persons who have or shall by articles of agreement in writing associate themselves together under any name assumed by them for the purpose of operating a warehouse or elevator for the purchase, storage and shipping of wheat or other grain within this state, may make an application in writing to any railroad company or corporation organized under the laws of this state, or doing business therein, to be permitted to construct, maintain and operate a warehouse or elevator at any of its regular way stations upon its right of way, to be used for the purpose aforesaid, and the railroad company or corporation so applied to shall grant such application without regard to the capacity of such elevator or warehouse and without discrimination as to persons, and in the order in which such applications shall be presented. § 1, c. 189, 1890. am'd.

§ 1797. **Public warehouses, how rental to be determined.** All elevators or warehouses erected under the provisions of the last section shall be kept open for the transaction of business during such portion of the year as may be required by the laws of the state, or commissioners of railroads. The associations or corporations which shall avail themselves of the benefits of this section are declared to be public corporations, subject to legislative supervision and control at all times and in all particulars in which rights or powers are conferred upon them by the provisions hereof. Before the application hereinbefore mentioned need be granted by any railroad company or corporation, the association making the same shall pay or secure to such railroad company or corporation such compensation for the right, privilege or franchise demanded in such petition as may be agreed upon between the parties as a just and reasonable yearly rental therefor, or a fixed or certain amount to be paid in one sum in lieu of a rental to be paid annually for the use and occupation of the site occupied by such warehouse or elevator and the uses and privileges connected therewith. If they fail to agree upon such yearly rental, or upon a gross sum to be paid in lieu thereof, all further proceedings shall be had under the chapter on eminent domain in the code of civil procedure. § 2, c. 189, 1890. am'd.

§ 1798. **Side tracks to be provided by railroad company.** Every railroad company or corporation organized under the laws of this state, or doing business therein, shall upon application in writing provide reasonable side track facilities and running connections between its main track and elevators and warehouses upon or contiguous to its right of way at such stations; and every such railroad corporation shall permit connections to be made and maintained in a reasonable manner with its side tracks to and from any warehouse or elevator without reference to its size, cost or capacity, where grain is or may be stored; provided, that such railroad company shall not be required to construct or furnish any side tracks except upon its own land or right of way; provided, further, that such elevators and warehouses shall not be constructed within one hundred feet of any existing structure and shall be at safe fire distance from the station buildings and so as not essentially to conflict with the safe and convenient operation of the road; and where stations are ten miles or more apart the railroad company when required so to do by the commissioners of

railroads shall construct and maintain a side track for the use of shippers between such stations.

§ 4. c. 189, 1890.

**§ 1799. Rights and privileges of individuals.** Individuals shall have the same rights and privileges under the provisions of the last three sections as associated persons, corporations and associations.

#### ARTICLE 26. — HABITUAL DRUNKARDS.

§ 1. c. 68, 1895.

**§ 1800. Treatment of drunkards. Method of procedure.** Any inhabitant of this state, who is of kin to, or a friend of an habitual drunkard as hereinafter defined, may petition the board of county commissioners of the county where such drunkard resides for leave to send such drunkard, at the expense of the county, to any reputable institute for the treatment of drunkenness, designated by a committee of three persons to be appointed by the governor; which petition shall set forth the name, age and condition of such drunkard; that such drunkard or those of his kin petitioning are not financially able to incur the expense of such cure, and that such habitual drunkard is willing and has agreed to attend such institute for the cure of drunkenness, which petition shall be verified by the person making such request, and shall contain, in addition thereto, the written agreement of such habitual drunkard, his desire to take such treatment, and the names of three reputable taxpayers in the county where such habitual drunkard resides, stating that they are familiar with the facts set forth in the petition, and with the financial circumstances of the drunkard and of the petitioner and think it a proper case for assistance by the board of county commissioners.

§ 2. c. 68, 1895.

**§ 1801. Duties of county commissioners.** When such petition is filed the board of county commissioners, if satisfied from examination that the facts set forth in the petition are true, that such drunkard has been a resident of the county for six months, and of his own free will desires to take such treatment, shall send such drunkard to some reputable institute for the treatment of such disease, which will treat the same at the lowest figure; but such board shall not be compelled to send such person to the institute making the lowest bid, unless, in its judgment, the best interests of such drunkard will be promoted thereby; and the board shall order that the expense for the treatment be paid out of the county treasury in the manner that other claims and bills against the county are paid. The treatment of such drunkard shall at all times be under the supervision of the board of county commissioners, who may at any time it deems proper, discontinue the treatment of any such drunkard, or change him from one institute to another, as to it shall seem best. No county shall be required to send the same person a second time at its expense to any such institute.

§ 3. c. 68, 1895.

**§ 1802. Drunkard defined.** A drunkard, as defined herein, includes a person who uses alcoholic, spirituous, malt, fermented or intoxicating liquors, morphia, laudanum, cocaine, opium or other narcotics to such a degree as to deprive him of a reasonable degree of self-control.

§ 4. c. 68, 1895.

**§ 1803. May reimburse the county.** Any person who shall be treated for drunkenness under the provisions of this article, and who desires to reimburse the county at whose expense he has been treated may pay to the county treasurer of such county the amount

expended for his treatment, and the treasurer shall give him a receipt for the amount so paid, which receipt shall state that such payment is for reimbursement as aforesaid, and the amount so paid shall be covered into the treasury of the county.

ARTICLE 27. — NEWSPAPERS QUALIFIED TO DO LEGAL PRINTING.

§ 1804. **Newspapers qualified to do legal printing.** Before any newspaper in this state shall be entitled to publish any legal notice of any nature or do any public printing for the state, or for any county, city or other municipality within the state, such newspaper must have been established at least six months and have been in regular and continuous circulation during that time with a bona fide circulation of at least one hundred and fifty regular and continuous subscribers. Such newspaper must contain at least four pages of five columns each, standard size in length and contain on an average not less than four columns of reading or news matter; provided, that in all counties hereafter organized all newspapers conforming otherwise to the provisions of this article shall be entitled to publish legal notices and do public printing from their inception. § 1. c. 120. 1890.

§ 1805. **Publisher to file affidavit.** It shall be the duty of the owner, or manager of any newspaper in this state before such newspaper can be awarded any contract for public printing of any nature whatsoever, or publish any legal notices of any kind or nature, to file with the county auditor of the county in which such newspaper is published a verified statement setting forth the number of regular and continuous subscribers, and the length of time such newspaper has been established and in general circulation. § 2. c. 120. 1890.

§ 1806. **Penalty.** Any person, association or corporation, publishing any legal notices or doing any public printing, contrary to the provisions of this article shall be liable to a fine of not less than twenty-five dollars nor more than two hundred dollars, and to a forfeiture of all pay for any such printing. § 3. c. 120. 1890.

§ 1807. **County printing, where to be done.** All county printing shall be done in the state and, if practicable, in the county ordering the same.

CHAPTER 23.

WOOL MARKET.

§ 1808. **Markets, how established.** If any city or village in this state shall in any year provide a building wherein not less than one hundred thousand pounds of wool may be stored free of charge from June fifteenth to August thirty-first, it may direct its clerk to notify the commissioner of agriculture and labor on or before May first, in such year, of the fact that provision has been made, stating the regulations established by such city for receiving, storing and marketing wool and the quantity of wool which will probably be marketed at such city in that year. § 1. c. 127. 1891.

§ 1809. **Proclamation by commissioner of agriculture and labor.** The commissioner of agriculture and labor shall thereupon make proclamation to the sheep raisers of this state, to the manufac- § 2. c. 127. 1891.

turers of woollen goods and to the wool buyers of this state and other states, by notices in newspapers, circulars and such other means as he shall deem most effective, that a wool market will be held at such city, naming the same, stating the beginning and duration of such market, the provision for free storage, the quantity of wool likely to be received and such other facts as he may deem proper for publication.

§ 3, c. 127, 1891.

**§ 1810. Wool to be held free of liens, etc.** Any person purchasing any wool while the same is stored in any building thus provided for between June fifteenth and August thirty-first, both inclusive, shall hold the wool so purchased free and clear of any and all liens, claims and incumbrances of which he does not have notice at the time he purchases and pays for the same, and such purchaser shall not be liable in any action either for the delivery of such wool or for the damages to the holder of any lien or incumbrance on such wool.

§ 4, c. 127, 1891.

**§ 1811. Expenses of commissioner.** The commissioner of agriculture and labor shall make a verified and itemized statement of his expenses and disbursements incurred under the provisions of this chapter and file the same with the state auditor, who shall thereupon issue his warrant on the state treasurer therefor, but such expenses shall not in any one year exceed in the aggregate the sum of one thousand dollars.

## CHAPTER 24.

### SOLDIERS AND SAILORS.

#### ARTICLE 1. — BURIAL.

§ 1, c. 151, 1887.

**§ 1812. State to pay funeral expenses, when.** All honorably discharged soldiers, sailors or marines who served in the army, navy or marine corps of the United States during the war of the Rebellion, who shall hereafter die within this state and whose relatives and friends are unable or unwilling to defray the expenses of their funeral, shall be buried at the expense of this state; but such funeral expenses, including cost of burial lot, shall not in any case exceed the sum of fifty dollars.

§ 2, c. 151, 1887.

**§ 1813. Interment.** The interment shall be in this state and shall not be made in any cemetery or plot used exclusively for the burial of the pauper dead.

§ 3, c. 151, 1887.

**§ 1814. Duty of county judge.** Upon notice to the county judge of the death of any soldier, sailor or marine within his county it shall be the duty of such judge to appoint a suitable person to carry into effect the provisions of this article in reference to the burial of such deceased soldiers, sailors or marines, for which service the person so appointed shall receive a fee not to exceed three dollars. It shall also be the duty of such judge immediately to notify the secretary of war of the death of any such soldier, sailor or marine, furnishing him with the name, age, date of birth, date of death, designating the company, regiment and name of the organization in which such soldier, sailor or marine served, and request the secretary of war to furnish a headstone for such deceased soldier, sailor or marine under the provisions of an act of congress authorizing the secretary of war to erect headstones over the graves of union soldiers



who have been interred in private, city or village cemeteries, approved February 3, 1879; and when such headstone is so furnished it shall be the duty of the county judge or other person designated by him for such purpose to cause the grave of such soldier, sailor or marine to be marked with such headstone; and the expense of erecting the same, not exceeding in any case the sum of five dollars, shall be paid by the state.

§ 1815. **Duty of other officers.** All expenses under this article shall be approved, allowed and certified to in duplicate by the county judge of the county in which such soldier, sailor or marine died or is buried, which duplicate certificate shall be delivered by such judge to the county auditor of the county, the original of which shall be forwarded by him at once to the state auditor, the duplicate to remain on file in his office. Upon the receipt by the state auditor of such certificate he shall draw his warrant on the state treasurer in favor of the county judge for the amount specified therein, and the county judge shall pay the same to the person entitled thereto. § 4, c. 151, 1887.

§ 1816. **Appropriation.** There is hereby appropriated out of the state treasury a sum sufficient to carry out the provisions of this article. § 5, c. 151, 1887.

#### ARTICLE 2.—PREFERMENT FOR OFFICIAL APPOINTMENT.

§ 1817. **Preferred for appointment.** In each public department and upon all public works of the state and of the cities and villages therein, honorably discharged union soldiers and sailors of the late war shall be preferred for appointment, and age, loss of limb or other physical impairment which does not in fact incapacitate shall not be deemed to disqualify them, if they possess the requisite qualifications and business capacity necessary to discharge the duties of the position involved. § 1, c. 205, 1887.

§ 1818. **Officials to comply with this article.** All officials or other appointing power in the public service shall comply with the provisions of the last section. § 2, c. 205, 1887. am'd.

### CHAPTER 25.

#### AMENDMENTS TO CONSTITUTION.

§ 1819. **Amendments to be published.** Whenever any amendment to the constitution of this state is referred to the legislative assembly to be chosen at the next general election after the session in which such amendment is first proposed, the same shall be published for three months previous to the time of making such choice in one weekly paper in each county in which a weekly paper is published, once in the first month, once in the second month and four times in the third month. § 1, c. 46, 1891.

§ 1820. **Papers, how selected.** The paper in which such publication is made shall be designated by the secretary of state. The secretary of state in making such designation shall as far as possible endeavor to select the paper having the largest circulation. § 2, c. 46, 1891.

§ 3. c. 46, 1891. **§ 1821. Fees.** The compensation for such publication shall be at the rate of twenty-five cents per square of twelve lines of solid brevier type or its equivalent to each newspaper designated to publish such amendment.

§ 4. c. 46, 1891. **§ 1822. Accounts, how audited.** The state auditor upon receipt of an account of the expenditure required by the provisions of this chapter, duly certified as correct by the secretary of state, shall draw his warrant on the state treasurer for the amount due each of such papers as shown by such account.

### CHAPTER 26.

#### COUNTIES AND COUNTY OFFICERS.

##### ARTICLE I.—ORGANIZATION OF COUNTIES.

§ 1. c. 40, 1885. am'd. **§ 1823. Petition for organization.** Any unorganized county in this state having a population of at least one thousand bona fide inhabitants may become organized by presenting to the governor a petition signed by at least one hundred and fifty qualified electors of such county setting forth that they have the requisite number of inhabitants to form a county organization and requesting him to organize such county as hereinafter provided.

§ 2. c. 40, 1885. am'd. **§ 1824. Duty of governor.** Whenever the qualified electors of any unorganized county in this state shall petition the governor as provided in the preceding section and the governor shall be satisfied that such county contains a population of at least one thousand bona fide inhabitants it shall be the duty of the governor and he is authorized to call an election in such unorganized county and fix one or more places in such county as the polling places therein and shall fix the time for holding such election; and the governor shall thereupon issue a notice of election, which notice shall be substantially in the following form:

Notice is hereby given that on the.....day of..... 18...at.....in the county of.....an election will be held for the following officers of such county in the organization thereof: (Name the officers to be elected), and also for the temporary location of the county seat of such county, at which election the polls will be open at the hour of eight o'clock in the morning and will continue open until five o'clock in the afternoon of the same day.

Dated this .....day of.....18....

.....  
Governor.

Attest:

.....  
Secretary of State.

§ 3. c. 40, 1885. am'd. **§ 1825. Election of officers.** There shall be elected by the qualified electors of such unorganized county all of the officers of such county which are or may be provided by law for organized counties, which officers shall hold their respective offices until the next general election thereafter, and until their successors are elected and qualified.

§ 4. c. 40, 1885. am'd. **§ 1826. County seat selected, how.** The electors at such election are empowered to vote for and select a county seat for such

county temporarily, subject to be changed thereafter as provided by law; and each voter at such election may designate on his ballot the place of his choice for county seat, and the place receiving the highest number of votes shall be the temporary county seat.

§ 1827. **Election precincts, how prescribed.** Whenever the governor shall have made out and completed such notice of election he shall cause the same to be delivered to the clerk of the district court of the judicial subdivision to which such unorganized county is attached for judicial purposes at least fifty days prior to the time fixed for such election, and thereupon and at least forty days prior to the time fixed by the governor in the notice for such election such clerk shall take to his assistance the chairman of the board of county commissioners and register of deeds, who shall meet at the office of such clerk at the time fixed by him, and such officers or a majority of them shall thereupon, if the governor shall have fixed more than one place for holding the election in such unorganized county, divide such county into election precincts in accordance with such notice, regard being had for the convenience of the voters, and such clerk shall thereupon add at the foot of each certified copy of such notice of election a certificate signed by him under the seal of the court showing the division of such county into election precincts and the boundaries thereof as determined by such board; and such clerk shall cause such notice and certificate to be published for at least thirty days prior to such election in a newspaper of general circulation in such judicial subdivision, printed and published in the county where the court for such subdivision is held, and deliver to the sheriff or coroner of such county or other person designated by him five certified copies of such notice and the certificate at the foot thereof, which original notice shall be filed in the office of such clerk as a record therein.

§ 5, c. 40, 1885.  
am'd.

§ 1828. **Judges of election.** It shall be the duty of such clerk, register of deeds and chairman of the board of county commissioners, or a majority thereof, at the meeting mentioned in the preceding section to appoint three capable and discreet persons possessing the qualifications of electors in such unorganized county to act as judges of election at each polling place in such county and thereupon such clerk shall make out and deliver to the sheriff, coroner or other person, after the appointment of such judges, a notice thereof in writing, directed to the judges of election so appointed and it shall be the duty of the sheriff, coroner or other person so appointed within ten days after receiving such notice to serve the same upon each of the judges so appointed.

§ 6, c. 40, 1885.  
am'd.

§ 1829. **Posting notices.** The sheriff, coroner or other person to whom such notice of election is delivered as aforesaid shall put up in five of the most public places in each of the voting precincts in such unorganized county at least twenty days previous to the time of holding such election one copy of such notice with the certificate thereto and one shall be posted at the house where such election is authorized to be held.

§ 6, c. 40, 1885.  
am'd.

§ 1830. **Judges of election. Vacancies, how filled.** If any person appointed to act as judge of election as aforesaid shall neglect or refuse to act in such capacity or shall not be present, the place of such person shall be filled by the qualified electors residing within the county or voting precinct, present at the election, and the persons so elected to fill such vacancy are vested with the same powers as if

§ 8, c. 40, 1885.  
am'd.

appointed judges of election as provided for in this article. The judges of election shall choose two persons who are qualified electors to act as clerks of such election.

§ 9. c. 40, 1885.  
am'd.

**§ 1831. Election law to apply.** All the provisions contained in the chapter on elections in this code, not inconsistent with the provisions of this article, shall apply to elections held under the provisions of this article.

§ 10. c. 40, 1885.  
am'd.

**§ 1832. Inspector of election to be appointed.** The governor at the time of calling such election or at least thirty days prior to the time fixed for such election shall appoint an inspector of elections for each polling place in such unorganized county who shall not be a resident of such county or in any manner interested in the vote therein, but shall possess all the qualifications of a state officer. Such inspector shall, before he enters upon the duties of his office, take and subscribe the oath of office required of civil officers, and also an oath that he is not and will not in any manner be directly or indirectly interested in the location of any county seat in such county and is not the owner of any land or interest therein situated in such county, which oath shall be filed in the office of the secretary of state.

§ 11. c. 40, 1885.  
am'd.

**§ 1833. Inspector to furnish ballot box and poll books.** Such inspector shall furnish at such election a ballot box in due form for use thereat, but if he shall fail or neglect so to do, then any qualified elector at such election shall have authority to furnish such ballot box; and such inspector shall at the same time and place furnish the proper and necessary poll books for use at such election in the form provided by law, but if he shall neglect or fail so to do, any qualified elector is authorized to furnish and deliver the same to the judges of election.

§ 12. c. 40, 1885.  
am'd.

**§ 1834. Powers and duties of inspector.** The inspector of election is authorized and required to attend at all times at the place for holding such election for the purpose of counting the votes cast thereat, challenging the vote of any person whose qualifications he may doubt, and to be and remain where the ballot boxes are kept at all times after the polls are opened until each vote cast at such election has been counted and until the canvass of such votes is completed and the proper certificate or returns made by the judges and clerks of election, and personally to inspect and scrutinize from time to time on the day of election the manner in which the voting is done and the manner in which the poll books and tally sheets therein are kept; the inspector of elections is also required personally to scrutinize and assist in the count and canvass of each ballot cast in the precinct for which he is inspector and to make out and deliver to the clerk of the district court a statement as to the truth or accuracy of the poll books and the truth or fairness of the election and canvass of votes and whether in his opinion there was illegal voting at such election, and, if so, the extent of such illegal voting and the nature and character thereof, which report shall remain on file in the office of the clerk of such court.

§ 14. c. 40, 1885.  
am'd.

**§ 1835. Penalty for illegal voting.** If any person shall interfere with the clerks, judges or inspectors of election in the exercise of their duties or shall interfere, hinder, molest or threaten to molest any such officer in the discharge of his duties or shall cast any illegal vote at such election, he shall be deemed guilty of a felony and shall upon conviction thereof be punished as provided in section 1839.

§ 1836. **Ballots to be numbered.** The ballots shall be folded by the voters and delivered to one of the judges of election, and if the judges and inspector or a majority of them are satisfied that the person offering the vote is a legal voter, the clerk shall enter the name of the voter and his proper number under the proper heading in the poll books, and one of the judges shall receive and place such ballot in the ballot box. § 15, c. 40, 1885. am'd.

§ 1837. **No adjournment. Ballots, how preserved.** After the opening of the polls no adjournment shall be had, nor shall any recess be taken until the votes cast at such election shall have been counted and the result publicly announced. All the ballots counted by the judges and inspector of elections shall, after being read, be strung upon a strong thread or twine in the order in which they have been read and after such ballots have been counted and strung as aforesaid the thread shall be tied in a knot, which knot shall be covered by wax, as directed by the inspector and thereupon it shall be inclosed in an envelope and carefully sealed up by the judges of election in the presence of the inspector and immediately placed in the ballot box together with the poll books, which ballot boxes shall be carefully locked up and sealed by the judges of election in the presence of such inspector before the same shall be delivered to them or either of them as provided in this article. § 16, c. 40, 1885.

§ 1838. **Return of poll books.** After the canvass of the votes has been completed the judges of election shall inclose and seal one of the poll books and under cover direct the same to the county auditor of the county to which such unorganized county is attached for judicial purposes and the book thus sealed shall thereupon be delivered to the inspector of elections who shall deliver the same to such county auditor within three days after the closing of the polls and such poll book shall be subject to inspection at any time thereafter as a public record. The other poll book inclosed in the ballot box as aforesaid together with the ballots inclosed and sealed therein by such judges and inspector shall, within the same time, be deposited by such inspector with the clerk of the district court for such judicial subdivision and the ballots and ballot boxes with the poll book therein shall be kept carefully closed and sealed until ordered opened by the district court of such subdivision or the judge thereof. § 17, c. 40, 1885. am'd.

§ 1839. **Penalty for misconduct of officers of election.** If any of the inspectors, judges or clerks of election shall in any manner interfere with any of the ballots, ballot boxes or poll books, other than as provided by law, or shall willfully aid or assist in making any false count of the ballots, or willfully falsify the poll books in any manner, or willfully make any false return of the votes, or if any inspector of elections shall willfully refuse or neglect to deliver such poll book and ballot boxes to the officers provided for in this article within the time herein specified, safe and with the seals unbroken, or if any inspector shall in any manner interfere with such poll books, ballots or ballot boxes, other than to deliver them to the officers provided for in this article, he shall be deemed guilty of a felony, and upon conviction thereof shall be fined in a sum not exceeding five thousand dollars and be imprisoned in the penitentiary for not less than one year nor more than five years. § 18, c. 40, 1885. am'd.

§ 1840. **Canvass of votes.** The county auditor of the county to which such unorganized county is attached for judicial purposes shall, within the time prescribed by law for the canvass of votes, take § 19, c. 40, 1885. am'd.

to his assistance the county judge, the clerk of the district court and a majority of the county commissioners of such county, who shall proceed to open such returns and make an abstract of the votes cast at such election in the following manner: The abstract of the votes for county officers shall be on one sheet, and the abstract of votes for the temporary location of the county seat shall be on a separate sheet; and it shall be the duty of such county auditor immediately to make out a certificate of election to each of the persons receiving the highest number of votes for such county offices and deliver such certificate to the person so elected; and immediately after canvassing the returns and making an abstract of the votes such county auditor shall make a certified copy of each abstract and forward the same to the secretary of state, and when the votes are canvassed for county seat the place receiving the highest number of votes shall be the temporary county seat and such place shall be so declared the county seat by such board or a majority of the members thereof.

§ 20, c. 40, 1885.  
am'd.

**§ 1841. Officers to qualify.** The officers elected under the provisions of this article shall qualify in the manner provided by law within twenty days after the canvass of such votes as provided for in the preceding section, and the county commissioners after they have so qualified shall immediately convene at the place so selected as the county seat and proceed to the discharge of their duties as such county commissioners in the organization of such county; and if any person elected to any office shall fail or refuse to qualify within thirty days after such canvass his office shall be deemed vacant and shall be filled in the manner required by law for filling vacancies.

§ 22, c. 40, 1885.  
am'd.

**§ 1842. Power of county commissioners.** The county commissioners elected or appointed under the provisions of this article shall have power to divide the county into three commissioner districts which shall be numbered from one to three, and such districts shall not be changed oftener than once in three years and then only at a regular session of the board. Three commissioners shall be elected, one from each of such districts at the next general election after such organization, one of whom shall be chosen for the term of one year, one for two years and one for three years, and one annually thereafter as provided by law. The inspectors of election shall receive for their services the sum of four dollars per day for the time actually and necessarily employed and ten cents per mile for each mile actually and necessarily traveled, the account thereof to be approved by the governor and audited and paid out of the state treasury.

§ 23, c. 40, 1885.  
am'd.

**§ 1843. Compensation of other officers.** The officer or person serving the notices on the judges of election and posting the same as provided in this article shall receive for his services the amount authorized by law for like services performed by the sheriff in organized counties; and the clerk of the district court and other county officers required to perform the services mentioned in this article shall receive two dollars per day for the time actually and necessarily employed; and the printers and publishers shall receive the legal rates for the publication of such notices; all of which sums shall be audited and paid by such unorganized county as soon as such county is organized under the provisions of this article.

§ 24, c. 40, 1885.  
am'd.

**§ 1844. Failure to post notices not to invalidate.** A failure to publish or post the notices provided for in this article shall not invalidate an election held under the provisions hereof; but, if any

officer shall willfully fail to perform any of the duties required of him he shall be deemed guilty of a misdemeanor.

§ 1845. **Proceedings set aside, when.** If from any cause the whole election held under the provisions of this article shall be set aside by the court or a judge thereof and declared invalid, the governor shall have authority to call a new election and such county shall be organized as in this article provided. § 25, c. 40, 1885. am'd.

§ 1846. **Annexed territory part of county.** Such portions of the state, not organized into counties, as are annexed to any organized county shall for judicial and other purposes be deemed to be within the limits and a part of the county to which they are annexed. § 5, c. 21, Pol. C.

#### ARTICLE 2. — CHANGING COUNTY LINES.

§ 1847. **County lines, how changed.** When a majority of the legal voters residing in any territory, not less than one congressional township, shall petition the board of county commissioners of their county, and also the county to which they desire such territory to be transferred for leave to have such territory transferred to such county, it shall be the duty of the boards of county commissioners so petitioned to order an election for such purpose in their respective counties to be held within three months from the time of receiving such petition: which election shall be governed by the laws relating to general elections, and the returns of such election shall be made to the secretary of state.

§ 1848. **Notices of election, how posted.** Notices of such election shall contain a description of the territory proposed to be transferred, the name of the county from and to which such transfer is intended to be made and shall be posted as required for general elections.

§ 1849. **Taxes. Officers. Ballots. Transfer of territory.** The ballots to be used at such election shall be in the following form: "For transferring territory," and "against transferring territory." If a majority of the voters voting upon such question in each of such counties, shall be for transferring territory then such territory shall be transferred to and become a part of the county to which it is proposed to transfer the same on and after the first day of March succeeding such election, and shall be subject to all the laws, rules and regulations thereof: provided, that the assessment and collection of taxes and judicial and other official proceedings commenced prior to such first day of March shall be continued, prosecuted and completed in the same manner as if no such transfer had been made; and provided, further, that all township officers within such transferred territory shall continue to hold their respective offices within the county to which they may be transferred until their respective terms of office expire.

§ 1850. **Area and population.** The area of no county shall be reduced under the provisions of this article to less than twenty-four congressional townships nor the population to less than one thousand bona fide inhabitants.

§ 1851. **Debts, how paid by territory transferred.** No territory transferred under the provisions of this article shall be released from the payment of its proportion of the debts of the county from which it was transferred; and such proportionate indebtedness from such transferred territory shall be collected by the county

to which such territory is transferred, at an equal or greater rate than is levied and collected in the county from which such territory was transferred, such rate to be ascertained by the certificate of the county auditor of such last named county, and when so collected the same shall be paid over to the county entitled thereto.

§ 1852. **Same.** When the county to which such territory is transferred is also indebted, the county board of such county shall release such transferred territory from the payment of such indebtedness to an amount equal to that which such territory is required to pay to the county from which it was transferred.

§ 1853. **Election, how called.** When a majority of the legal voters of any territory less than one-half of one congressional township shall petition the boards of county commissioners as above provided, such boards may in their discretion order elections to be held as herein provided, and in any case where elections have been held under this article and the result has been adverse to the petitioners, it shall be in the discretion of such boards of county commissioners to order another election on a petition to transfer the same territory presented within three years from the time of holding such former election.

#### ARTICLE 3.— DIVISION OF COUNTIES.

§ 1. c. 38, 1887.  
am'd. § 1854. **Electors may petition.** Whenever it is desired to form a new county out of one or more of the then existing counties, and a petition praying for the formation of such new county describing the territory proposed to be taken for such new county together with the name of such proposed new county, signed by a majority of the legal voters residing in the territory to be stricken from such county or counties, shall be presented to the board of county commissioners of each county to be affected by such division, and it appearing that such new county can be constitutionally formed, it shall be the duty of such boards of county commissioners to make an order providing for the submission of the question of the formation of such new county to a vote of the people of the counties to be affected, at the next succeeding general election, and notice thereof shall be given, the votes canvassed, and the returns made as in case of the election of members of the legislative assembly; and the form of the ballot to be used in the determination of such question shall be "for new county" and "against new county."

§ 5. c. 38, 1887.  
am'd. § 1855. **Governor to appoint county commissioners.** If it shall appear that a majority of all votes cast at such election in each of the counties interested is in favor of the formation of such new county, the county auditor of each of such counties shall certify the same to the secretary of state, stating in such certificate the name, territorial contents and boundaries of such new county, whereupon the secretary of state shall notify the governor of the result of such election, whose duty it shall be to appoint three persons, residents of the county so formed, possessing the qualifications of electors, who will accept and qualify in such office, county commissioners for such new counties, who shall hold their office until the first general election thereafter and until their successors are elected and qualified; and upon the qualifying of such commissioners such county shall be deemed to have existence as such and be governed by the laws of the state relating to counties.



**§ 1856. County commissioners to appoint county officers**  
 The county commissioners appointed under the provisions of the preceding section, after having qualified according to law, shall appoint all the county officers of the county so organized, who after having qualified shall hold their offices until the first general election thereafter and until their successors are elected and qualified; provided, that all justices of the peace and constables in office within the boundaries of any county organized under this article shall continue to hold such offices in such new county during the remainder of their term, and shall give bonds to the county organized under this article of the same amount and in the same manner as to the original county.

§ 6. c. 38, 1887.  
am'd.

**§ 1857. County seat, how located.** The county commissioners of such county shall have power temporarily to fix the county seat and such location shall remain the county seat until the first general election thereafter, when the qualified voters of such county are empowered to vote for and select the place of county seat by ballot as provided by law. Immediately after the selection of such county seat either by the county commissioners or by the canvass of returns of votes the county commissioners shall issue their proclamation announcing such fact and publish the same in a newspaper published in such county if there is one, and if not, by posting a copy thereof in a public place in each election precinct in such county.

§ 7. c. 38, 1887.  
am'd.

**§ 1858. Commissioners governed by existing law.** In all matters not specially provided for in this article the county commissioners appointed as hereinbefore provided shall be governed by the laws then existing.

§ 8. c. 38, 1887.

**§ 1859. Election governed by general law.** All elections under this article, where not otherwise provided, shall be conducted in the same manner as required by law for general elections, and no refusal or neglect on the part of any official to perform his lawful duties in connection therewith shall in anywise affect the validity of such election.

§ 9. c. 38, 1887.

**§ 1860. Records to be transcribed.** When a new county is organized in whole or in part from an organized county or from territory attached to such organized county for judicial purposes, it shall be the duty of the commissioners of such new county to cause to be transcribed in the proper books all the records of deeds or other instruments relating to real estate in such new county, and all contracts heretofore made by any board of county commissioners for the transcribing of any such records are hereby made valid and all records transcribed thereunder or under the provisions of this section shall have the same effect in all respects as original records, and any person authorized by such boards of county commissioners to transcribe such records shall have free access at all reasonable times to such original records for the purpose of transcribing the same.

§ 10. c. 38, 1887.  
§ 1. c. 38, 1895.

**§ 1861. New counties, indebtedness of.** Any county organized under this article shall assume and pay as herein provided a just proportion of the indebtedness of the county from which it is segregated, based upon the last assessed valuation of such original county and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county; and it is the duty of the commissioners of both the county organized under this article and the county from which the latter segregates to meet together at the county seat of the original county on the third Monday in the sixth month following the appoint-

§ 11. c. 38, 1887.

ment of county commissioners by the governor as provided for in this article. They shall ascertain as near as may be the total outstanding indebtedness of the original county on the first day of January or July, as the case may require, next preceding the date of the joint session provided for in this section and from such total they shall make the following deductions:

1. The amount of all dues for rents.

2. The amount of outstanding bonds given or money paid for public property owned by and remaining within the limits of the original county.

3. The amount of public funds on hand and belonging to the original county on the day for which its outstanding indebtedness is ascertained by the joint board of county commissioners as provided for in this section and not belonging to the special funds hereinafter mentioned. The amount remaining after such deductions shall have been made shall, for the purpose and as a basis for the settlement herein provided, be the amount which the county organized under this article shall pay a portion of, in the proportion hereinbefore specified, and it shall be the duty of such commissioners to ascertain and fix the amount the county organized under this article shall assume and pay to the county from which it segregates.

§ 12, c. 38, 1887.

**§ 1862. Division of property.** All moneys belonging to special funds such as fire, school, road and other funds and property owned by the districts within the boundaries of a county organized under this article, on hand at the time of the settlement provided for in the preceding section, in a county from which a portion segregates, shall be turned over in full by the treasurer of the original county to the treasurer of the county organized under this article and shall be duly receipted for by the latter and placed to the credit of the districts within his county to which they properly belong.

§ 13, c. 38, 1887.

**§ 1863. Moneys turned over to new county, when.** Any county in which the amount of public funds on hand at the time of the settlement provided for in section 1861 exceeds the total of its outstanding indebtedness shall, after deducting such outstanding indebtedness and after making the deductions provided for in section 1861 from the amount of such public funds on hand, pay over to the county segregated from it and organized under this article a just proportion of such funds, based upon the assessed valuation of the whole of the original county in and for the year prior to the date of such segregation and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The boards of county commissioners shall meet as provided in section 1861 and ascertain the amount so to be paid and the board of county commissioners of the original county shall issue warrants for such amount, payable immediately to the treasurer of the county organized under this article and the amount so received by the latter shall be by him placed to the credit of the proper funds of his county.

§ 14, c. 38, 1887.  
am'd.

**§ 1864. Commissioners to redistrict counties.** The county commissioners of a county from which a portion segregates under this article shall immediately after such segregation redistrict their county into the districts provided for by the laws then existing and shall fill the vacancies occasioned by such segregation in the manner provided by law for filling vacancies.

§ 1865. **Districts renumbered and renamed.** School districts and road districts within counties affected by this article shall be renumbered so as to make their numbers in each county run consecutively, and the names of school townships may when necessary be changed. § 15, c. 38, 1887.

§ 1866. **When district liable for bonds.** When the boundaries of any school district or school township have been changed under the provisions of this article that portion of such school district or school township in which the school houses and other property remain shall be liable for the payment of the bonds, if any, issued by such school district or school township, and if such portion shall have been attached to another school district or school township the school district or school township to which such portion has been attached shall be liable for the payment of the bonds, if any, of the school district or school township to which such portion formerly belonged. § 16, c. 38, 1887.

§ 1867. **Validity of bonds.** The validity of bonds issued by school districts or school townships prior to the division of any county under this article shall in nowise be affected by such division nor by the renumbering or renaming of the school district or school township that issued them. § 17, c. 38, 1887.

§ 1868. **Fees of county commissioners.** County commissioners while in the discharge of their duties as provided for in the preceding sections of this article shall receive the same compensation as is allowed by law for the performance of their ordinary official duties. § 18, c. 38, 1887.

§ 1869. **Indebtedness of new county.** The amount of indebtedness of a county organized under this article as ascertained by the two boards of county commissioners as aforesaid shall be paid to the county from which it segregates in the bonds of the new county thus segregated as hereinafter provided. § 19, c. 38, 1887.

§ 1870. **When bonds to be dated.** Such bonds shall be dated on the first day of January or July, from which the outstanding indebtedness of the original county is calculated as provided in section 1861; shall be issued for a period corresponding with the time or term on which the obligations of the original county become due and payable; shall be payable at the same place and shall bear the same rate of interest as the obligations of the original county, said commissioners taking care to classify the liquidating bonds, issuing a due proportion of each in proportion to each of the original county obligations bearing different rates of interest and places of payment; and such original county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class. § 20, c. 38, 1887.

§ 1871. **County treasurer to keep bond register.** The county treasurer of a county issuing bonds under the provisions of this article shall provide himself with a book to be called the "bond register" wherein he shall note the number and denomination of each bond issued by his county, the date of issue, when and where payable, with such other facts as the county commissioners of his county shall direct, which bond register when completed shall be deposited with the county auditor of his county and shall be and remain a part of the records of his office. § 21, c. 38, 1887.

§ 1872. **Commissioners to issue liquidating bonds.** The board of county commissioners of a county organized under this article is empowered and directed to issue such liquidating bonds in § 22, c. 38, 1887.

denominations as may be required by the old county, not to exceed one thousand dollars each, and deliver the same to the county auditor of the old county who shall receipt therefor, affixing the seal of his office to such receipts, and the county auditor of the county organized under this article shall enter such receipts at large upon the records of the board of county commissioners and note the same in the bond register of his county.

§ 23, c. 38, 1887.

**§ 1873. Commissioners to levy tax.** The board of county commissioners of a county issuing bonds under the provisions of this article shall, for each year after the date of such bonds, levy and cause to be collected a tax sufficient to pay the interest on such bonds as it shall become due, and also such sinking funds as shall correspond with the laws under which the bonds of the original county were issued, sufficient to redeem such bonds at maturity; and as fast as such sinking fund shall become available, they shall redeem such bonds in the manner provided for redeeming the bonds of the original county; provided, that public notice shall be given by such board in a newspaper, if one is published within the county, setting forth that certain bonds, giving their number and description, will be redeemed by such county, and naming the date of such redemption,

§ 24, c. 38, 1887.

**§ 1874. Interest for redemption of bonds.** The money collected for the payment of the interest or principal of said bonds shall not be used for any other purpose until such bonds are redeemed; any surplus thereafter shall be placed in the county general fund.

§ 25, c. 38, 1887.

**§ 1875. Revenue of counties.** The authority of any county, from which a portion segregates under the provisions of this article, for the collection of revenue within the boundaries of the portion segregating, shall cease from the date upon which the two boards of county commissioners under the provisions of section 1861 base the settlement between their counties, and all assessments and levies made by the authority of the county, from which a portion segregates, by its officers in the lawful performance of their official duties, affecting any of the territory embraced in the boundaries of such new county, shall remain the same and shall be payable to and collectible by the lawful authorities of the latter only.

§ 26, c. 38, 1887.

**§ 1876. Judicial subdivision.** Any county organized under the provisions of this article shall, as soon as its organization shall have been completed, constitute and be created a judicial subdivision of the judicial district to which it properly belonged at and before its organization.

§ 27, c. 38, 1887.  
am'd.

**§ 1877. Judge to appoint term of district court.** The judge of the judicial district in which a county organized under this article is created a legal subdivision of his district under the provisions of the last section shall appoint and hold at least two terms of the district court each year at the county seat of such county.

§ 28, c. 38, 1887.  
am'd.

**§ 1878. Venue, when changed.** In all actions or proceedings, civil or criminal, for the prosecution of a crime committed or a cause of action arising within the boundaries of any judicial subdivision created under the provisions of this article, and properly triable in such subdivision under the provisions of the codes of civil and criminal procedure, the venue thereof shall be changed to the new county by order of the court upon the demand of either party, which demand shall be served upon the opposite party or his attorney, if either can conveniently be found in the state; but if neither can

conveniently be found therein, then such change of venue may be made upon filing such demand with the clerk of the district court.

§ 1879. **Writs, bonds and recognizances.** All process, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions changed to a new county under this article, issued and made returnable to the district court of the county from which a portion has been segregated and organized under this article prior to the creation of such legal subdivision, shall be taken and considered as made, taken and returnable to the district court within the boundaries of such new judicial subdivision, and such bonds, recognizances and obligations shall be payable to such new county and recoverable upon in the name of such new county, and all papers and certified copies of all proceedings had in such action shall be transmitted by the clerk of the district court of the old to the clerk of the district court of the new county. § 29, c. 33, 1887.

#### ARTICLE 4. — COUNTY SEATS.

§ 1880. **County seat, removal of.** Whenever the inhabitants of any county in this state desire to remove the county seat of the county from the place where it is fixed by law, or otherwise, to another place, they may present a petition to the board of county commissioners of their county praying such removal and that an election be held to determine whether or not such removal shall be made. Such petition must be verified by the affidavit of each of the signers thereof, stating that he is a resident of the county, a qualified elector therein and that he personally signed his name thereto knowing the contents and purpose of the petition.

§ 1881. **Commissioners to submit question to vote, when.** If the petition is signed by qualified electors of the county equal in number to at least two-thirds of all the votes cast in the county at the last preceding general election the board must at the next general election submit the question of removal to the electors of the county.

§ 1882. **Notice of election.** Notice of such election, clearly stating its object, must be given and the election must be held and conducted and the returns made in all respects in the manner prescribed by law in regard to the submitting of questions to the electors of a locality under the general election law.

§ 1883. **Ballot, how marked. Notice of result.** In voting on the question, each elector must vote for the place in the county which he prefers by placing opposite the name of the place the mark X. When the returns have been received and compared and the result ascertained by the board, if two-thirds or more of all the legal votes cast by those voting on the proposition are in favor of any particular place, the board must give notice of the result by posting notices thereof in all the election precincts in the county and by publishing a like notice in a newspaper published in the county at least once a week for four weeks.

§ 1884. **County seat, when deemed changed.** In the notice provided for in the last section the place selected to be the county seat of the county must be so declared from a day specified in the notice not more than ninety days after the election. After the day thus named in the notice, the place chosen shall be the county seat of the county.

**§ 1885. Statement of result of election, where filed.** Whenever any election has been held as provided in this article, the statement made by the board of county commissioners, showing the result thereof, must be deposited in the office of the county auditor, and whenever the board gives the notice prescribed in the last section, it must transmit a certified copy thereof to the secretary of state.

**§ 1886. Election held only once every four years.** When an election has been held and at least two-thirds of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within four years thereafter.

**§ 1887. Subsequent removal, petition for.** When the county seat of a county has been once removed by a two-thirds vote of the people of the county, it may be again removed from time to time in the manner provided in this article; but no election must be ordered to effect any such subsequent removal, unless a petition praying an election is signed by the qualified electors of the county equal in number to at least two-thirds of all the votes cast at the last preceding general election, nor unless at such election, when ordered, two-thirds of all the votes cast are in favor of some other place as the county seat of the county, and such election, when so ordered, shall take place at the first general election held thereafter, nor must two elections to effect such removal be held within four years.

#### ARTICLE 5.—CORPORATE POWERS AND LIABILITIES.

**§ 1888. County a corporate body. Powers.** Each organized county is a body corporate for civil and political purposes only and as such may sue and be sued, contract and be contracted with, and in all cases where lands have been granted to any county for public purposes and any part thereof has been sold and the purchase money or any part thereof shall be due and unpaid, all proceedings necessary to recover possession of such lands or to enforce the payment of the purchase money shall be instituted in the name of the proper county.

**§ 1889. Judgments against counties, how paid.** When any judgment is obtained against a county the board of county commissioners shall have power at any time after the expiration of six months from the rendition thereof to assess and collect a sufficient amount of revenue to pay off and discharge such judgment, in addition to the ordinary expenses of the county. But the property of the county and of persons owning property situated or liable to taxation therein shall in no case be subject to judgment lien nor to seizure or sale upon execution or other process of any court.

#### ARTICLE 6.—COUNTY OFFICERS.

**§ 1890. Number and election of.** Each organized county shall have the following officers: One county auditor, one register of deeds, one clerk of the district court, one state's attorney, one sheriff, one county judge, one county treasurer, one county surveyor, one coroner, one county superintendent of schools, four justices of the peace and four constables. And there shall be three or five county commissioners as hereinafter provided who shall constitute the board

of county commissioners. Such officers shall be chosen by the qualified electors of their respective counties at the general election in each even numbered year, except the commissioners, who shall be chosen by the electors of their respective districts, of which district such commissioners shall be qualified electors.

**§ 1891. Sheriff and treasurer eligible two terms only.** § 1. c. 103, 1889. The sheriff and county treasurer shall not be eligible for election to such offices for more than two successive terms of two years each.

#### ARTICLE 7. — COUNTY COMMISSIONERS.

**§ 1892. Number of commissioner districts, how determined.** § 1. c. 48, 1890. The number of county commissioners of any county within this state may be increased to five or reduced to three in the manner following: Whenever the legal voters of a county equal to one-third of the number of legal votes cast at the last preceding general election petition the board of county commissioners to call an election for determining the number of commissioners which shall constitute such county board, it shall be the duty of the commissioners to call a special election and submit such question to a vote. Notice of such election shall be given by publication in the official newspaper of the county, or by posting notice, for a period of at least twenty days. Such election shall be held not less than sixty days prior to a general election. If the question is for an increase to five commissioners, the proposition shall be submitted in this form:

“For five commissioners.”

“Against five commissioners.”

If it is for a reduction to three, the proposition shall be in this form:

“For three commissioners.”

“Against three commissioners.”

The returns of such election shall be canvassed by the board of county commissioners within one week after such election.

**§ 1893. Districts, how formed. Commissioners, how designated.** § 2. c. 48, 1890. When the returns of such election show a majority of all the legal votes cast to be for an increase from three to five it shall be the duty of the board of county commissioners within ten days after the votes have been canvassed to divide the county into five districts. The districts shall be numbered from one to five, those last created being designated fourth and fifth respectively. At the ensuing general election commissioners for such additional districts shall be elected, the commissioner in the fourth district for two years and in the fifth district for three years; thereafter they shall hold their terms of office for three years. The tenure of office of the existing board of county commissioners shall not be affected. The district which each commissioner shall represent shall be designated by such board. When the special election results in a majority for a decrease from five to three the existing county board shall at the end of the first two expiring terms of the same year declare such districts vacant and at their first regular meeting thereafter proceed to divide the county into three commissioner districts, and in such division designate the district which each of the three remaining commissioners shall represent.

**§ 1894. Commissioner districts redistricted, when.** § 1. c. 34, 1895. Whenever a majority of the legal voters of any county commissioner district shall petition the board of county commissioners to change the boundaries of the commissioner districts, it shall be the duty of the

county commissioners at their next regular meeting to consider such petition and if it shall appear that the commissioner districts of such county are not reasonably equal in population, they shall proceed at once to redistrict such county into commissioner districts.

§ 2, c. 34, 1895.

**§ 1895. Duty of commissioners.** In redistricting any county it shall be the duty of the county commissioners to make the districts as regular and as compact in form as practicable and as equal in population as possible, as shall be determined by the votes cast at the last preceding general election, but no new district shall be so formed that any two of the then acting commissioners shall reside in the same district, and no county shall be redistricted oftener than once in three years.

§ 16, c. 21, Pol. C.

**§ 1896. Term of office of commissioners.** The commissioners shall hold their office for the term of three years, except as provided by law for the organization of counties, and one shall retire and one be chosen annually, and in counties now organized the order of their election and succession shall remain as now established, and commissioner districts in such counties shall continue as now constituted until changed as provided by law.

§ 17, c. 21, Pol. C.

**§ 1897. County seal.** The board of county commissioners shall procure and keep a seal with such emblems and devices as they may think proper, which shall be the seal of the county and no other seal shall be used by the county auditor; and the impression of such seal by the stamp shall be sufficient sealing in all cases where sealing is required.

§ 18, c. 21, Pol. C.

**§ 1898. Meetings of board, time and place of.** The county commissioners shall meet and hold sessions for the transaction of business at the court houses in their respective counties, or at the usual places of holding court, on the first Mondays in January, April, July and October of each year and may adjourn from time to time; and the county auditor shall have power to call special sessions when the interests of the county demand it, upon giving five days' notice of the time and object of such meeting by posting up notices in three public places in the county or by publication in one newspaper in the county; provided, that in case of a vacancy in the office of the county auditor the chairman of the board shall have power to call a special session for the purpose of filling the same.

§§ 19, 20, c. 21,  
Pol. C.,  
am'd.

**§ 1899. Chairman, duties of.** At the first meeting of the board each year they shall elect one of their number chairman who shall act as chairman of such board during the year in which he is elected or until his successor is elected, and in case of a vacancy from any cause whatever the board shall elect another chairman. It shall be the duty of the chairman to preside at the meetings of the board; and all orders made by the board and all warrants drawn on the county treasurer, except warrants for salaries of county officers, shall be signed by the chairman and attested by the county auditor.

§ 21, c. 21, Pol. C.

**§ 1900. Tie vote defers decision.** When the board is equally divided on any question it shall defer a decision until the next meeting at which time the matter shall be decided by a majority of the board.

§ 22, c. 21, Pol. C.

**§ 1901. Proceedings. Copies as evidence.** Copies of the proceedings of the board duly certified and attested by the county auditor under seal shall be received as evidence in all courts of this state.



§ 1902. **Power of board to preserve order.** The board shall have power to preserve order when sitting as a board and may punish contempts by fines not exceeding five dollars or by imprisonment in the county jail not exceeding twenty-four hours; and it may enforce obedience to its orders by attachment or other compulsory process, and when fines are assessed by it the same may be collected before any justice of the peace having jurisdiction, and shall be paid over as other fines within ten days after they are collected. § 23, c. 21, Pol. C.

§ 1903. **Boards to keep record books.** They shall keep a book in which all orders and decisions made by them shall be recorded, except those relating to roads and bridges; and all orders for the allowance of money from the county treasury shall state on what account and to whom the allowance is made, dating the same and numbering them consecutively as allowed from the first day of January to the thirty-first day of December in each year; also a book for the entry of all proceedings relating to bridges and the establishment, change or discontinuance of roads and a book for the entry of warrants on the county treasurer showing the number, date, amount and name of the payee of each warrant drawn, which book shall be known as the warrant book, and the warrants shall be numbered in relation to the order and decision allowing the amount for which the same is drawn. §§ 25-27 c. 21, Pol. C.

§ 1904. **Warrants canceled, when. Description of in minutes.** The board is authorized and required at each regular meeting to cancel and destroy all warrants drawn on any fund of the county which may have remained uncalled for and on file for a period of six years or more next preceding the regular meeting on which such cancellation takes place. Such board shall before canceling and destroying any such warrants cause to be entered in the minutes of its proceedings a brief description thereof containing the name of the payee, and the number, date and amount of each warrant to be destroyed. § 1, 2, c. 37, 1887.

§ 1905. **Board, powers of.** It shall have power to institute and prosecute civil actions in the name of the county for and on behalf of the county. It shall also have power to make all orders respecting property of the county, to sell the public grounds of the county and to purchase other grounds in lieu thereof; and for the purpose of carrying out the provisions of this section it shall be sufficient to convey all the interest of the county in such grounds when an order is made for the sale and a deed is executed in the name of the county by the chairman of the board reciting the order and signed and acknowledged by him for and on behalf of the county; provided, that the question of the sale of such public grounds or lands shall first be submitted to a vote of the people of the county as hereinafter provided and sanctioned by a majority vote thereof. §§ 28, 29, c. 21, Pol. C.

§ 1906. **Additional powers of board.** In addition to the powers hereinbefore mentioned such board shall have power: § 29, c. 21, Pol. C. am'd.

1. To levy a tax not exceeding the amount authorized by law and to liquidate indebtedness.

2. To audit the accounts of all officers having the care, management, collection or disbursement of any money belonging to the county or appropriated for its benefit.

3. To construct and repair bridges and to open, lay out, vacate and change highways in the cases provided by law; to establish election precincts in its county and to appoint the judges of election in the

cases provided by law; and to equalize the assessments of the county in the manner provided by law.

4. To furnish the necessary blank books, blanks and stationery for the clerk of the district court, county auditor, register of deeds, county treasurer, county judge, sheriff and state's attorney of its county, to be paid out of the county treasury; also a fire proof safe, when in its judgment the same shall be advisable, in which to keep all the books, records, vouchers and papers pertaining to the business of the board.

5. To do and perform such other duties as now are or may hereafter be prescribed by law.

§ 30, c.21, Pol.C.  
am'd.

**§ 1907. Board to superintend fiscal affairs of county.** It shall superintend the fiscal affairs of the county and secure their management in the best manner. It shall keep an account of the receipts and expenditures of the county and on the first Monday of July annually it shall cause a full and accurate statement of the assessments, receipts and expenditures of the preceding year to be made out in detail under separate heads with an account of all debts payable to, and by the county treasurer, and it shall have the same published in at least one newspaper in its county. If there is no newspaper in the county the same shall be posted up at the usual place of holding its sessions.

§ 1, c. 72, 1891.

**§ 1908. Special tax levy for immigration.** The board is authorized at the time fixed by law for the levying and assessment of taxes to levy a tax not exceeding one-fourth of one mill on the dollar upon the assessed valuation of all the property in the county upon presentation of a petition signed by one-third of the legal voters of the county, taking the total vote at the last general election for a basis, the proceeds of which shall be used solely for the purpose of promoting and assisting immigration to this state.

§ 2, c. 72, 1891.

**§ 1909. Immigration fund.** The funds provided to be raised in accordance with the last section shall be denominated the "immigration fund" and shall be kept separate and distinct by the county treasurer and shall be expended by and under the direction and control of the board of county commissioners at such time and in such manner as is by such commissioners deemed best for the purpose of securing immigration to the state.

§ 31, c.21, Pol.C.

**§ 1910. Board may procure original field notes.** The board is authorized to procure for its county a copy of the field notes, as soon as practicable, of the original survey of its county by the United States, and cause a map of the county to be constructed therefrom on a scale of not less than one inch to a mile, and laid off in congressional townships and sections, the same to be kept open in the office of the county auditor and the field notes to be deposited therein.

§ 32, c.21, Pol.C.  
am'd.

**§ 1911. Board to submit extraordinary outlay to a vote.** It shall submit to the people of the county at any regular or special election any question involving an extraordinary outlay of money by the county or any expenditure greater in amount than can be provided for by the annual tax, or the question of the construction of any court house, jail or other public building, or whether it will aid in constructing or construct any highway or bridge.

§ 34, c 21, Pol.C.  
am'd.

**§ 1912. Mode of submitting propositions.** The mode of submitting questions to the people contemplated by the last section shall be the following: The whole question including the sum desired to be raised and the amount of the tax desired to be levied or the

rate per annum, shall be published at least four weeks in some newspaper published in the county. If there is no such newspaper the publication shall be made by posting in at least one of the most public places in each election precinct in the county; and in all cases the notices shall name the time when such questions shall be voted upon and the form in which the question will be submitted; and a copy of the question submitted shall be posted up at each voting place during the day of election.

**§ 1913. Proposition to tax must accompany question submitted.** When the question submitted involves the borrowing or expenditure of money such proposition must be accompanied by a proposition to levy a tax for the payment thereof in addition to the usual taxes required to be levied; and no vote adopting the question proposed shall be valid unless it likewise adopts the amount of tax to be levied to meet the liability incurred. § 35, c. 21, Pol.C. am'd.

**§ 1914. Tax not to exceed three mills annually.** The rate of tax levied in pursuance hereof shall in no case exceed three mills on the dollar on the assessed valuation of the county in any one year. When the object is to borrow money to aid in the erection of public buildings the rate shall be such as to pay the debt in ten years; when the object is to construct or aid in constructing any road or bridge the annual rate shall not exceed one mill on the dollar of the valuation; and any special tax or taxes levied in pursuance of this article, after becoming delinquent, shall draw the same rate of interest as ordinary taxes levied in pursuance of law. § 36, c. 21, Pol.C.

**§ 1915. Record of vote. Board cannot rescind.** Such commissioners upon being satisfied that the above requirements have been substantially complied with and that a majority of the votes cast are in favor of the proposition submitted, shall cause the same to be entered at large upon the book containing a record of their proceedings, and they shall then have power to levy and collect the special tax in the same manner that the other county taxes are collected. Propositions thus acted upon cannot be rescinded by the board. § 37, c. 21, Pol.C.

**§ 1916. Money to be specifically applied.** Money raised by the county commissioners in pursuance of the last five sections is specifically appropriated and constitutes a fund distinct from all others, in the hands of the county treasurer, until the obligations assumed are discharged. § 38, c. 21, Pol.C.

**§ 1917. Board may transfer unexpended balances, when.** The board may at any regular meeting thereof transfer to the general fund any unexpended balances which are or may be in the county treasury belonging to the road and bridge fund or penalty and interest fund; also any balance remaining in any funding bond fund prior to the passage of this law, when in its opinion such transfer will be beneficial to the county. No such transfer shall be made until the object for which such fund was created or set apart has been accomplished and all claims against such fund paid; or if belonging to any fund created for the purpose of paying bonded indebtedness or interest thereon, until such bonds have been redeemed and interest paid. § 1, c. 175, 1890.  
§ 1, c. 3, 1891.

**§ 1918. Special funds may be transferred, when.** Whenever there remains in the treasury of any county an unexpended balance of any special fund and all claims against such fund have been fully paid, and the purpose for which it was created has been fully subserved and there remains no further use for such balance § 1, c. 144, 1887.

for the purpose for which it was created, it shall be lawful for the board to transfer such balance to any other fund of the county or subdivisions to which such balance belongs.

§ 39, c. 21, Pol.C.  
am'd.

**§ 1919. Warrants, how signed and attested.** All warrants upon the county treasury, except warrants for salaries of county officers, shall be issued upon the order of the board of county commissioners signed by the chairman thereof and attested by the signature of the county auditor with the county seal affixed, and shall designate the fund upon which they are drawn. Warrants for salaries of county officers may be drawn by the county auditor from time to time as such salaries become due and payable.

§ 40, c. 21, Pol.C.

**§ 1920. Sessions of board to be public.** The board shall hold its sessions with open doors and transact all business in the most public manner and, if the county has no courthouse or the courthouse shall be unfit or inconvenient, such sessions may be held at any other suitable place at the county seat. All matters pertaining to the affairs of the county shall be heard by the board in session only, but they may continue any business from any regular session to an intermediate day.

§ 41, c. 21, Pol.C.

**§ 1921. Record, what constitutes.** The books required to be kept by this article shall constitute the records of the board of county commissioners.

§ 42, c. 21, Pol.C.  
§ 1, c. 41, 1887.

**§ 1922. Board to provide offices, court room, jail, etc.** In any county where there is no courthouse or jail erected by the county or where those erected have not sufficient capacity, it shall be the duty of the board to provide a court room and jail, also offices for the following named officers: Sheriff, treasurer, register of deeds, auditor, clerk of the district court, state's attorney, county judge and county superintendent of schools; to be furnished by such county in a suitable building, at the lowest rent to be obtained at the county seat, or to secure and occupy suitable rooms at a free rent within the limits of the county seat or any of the additions thereto until such county builds a courthouse. It shall also provide the courts appointed to be held therein with attendants, fuel, lights and stationery suitable for the transaction of their business. If the board neglects, the court may order the sheriff to do so and the expense incurred by him in carrying such order into effect, when certified by the court, shall be a county charge.

§ 43, c. 21, Pol.C.

**§ 1923. To erect and repair buildings from current revenue.** The board shall have authority under the provisions of this article to provide for the erection and repairing of courthouses, jails and other necessary buildings within and for the county and to make contracts on behalf of the county for the building and repairing of the same; but no expenditure for the purpose herein named greater than can be paid out of the annual revenue of the county for the current year shall be made unless the question of such expenditure shall have first been submitted to a vote of the qualified electors of such county and shall have been approved by a majority of the votes so cast; and the board shall determine the amount and rate of taxes to be submitted to a vote for such purpose.

§ 44, c. 21, Pol.C.

**§ 1924. Duty to use building fund.** After a building fund has been accumulated either from the proceeds of the sale of town lots or from any other source it shall be the duty of the board, within one year from the time such fund becomes available, to proceed to

the erection of the necessary county buildings, including a jail, if such fund shall in the judgment of the board be sufficient for that purpose.

§ 1925. **Contracts let only on competitive bids.** The board shall cause an advertisement for bids for the erection of such building to be published for at least three months prior to the opening of the bids in some newspaper published in the county and in such other newspaper in the state and for such period as the board may deem advisable. Such advertisement shall state where the plans and specifications may be examined and the time allowed for the completion of such building, also the time when the bids will be opened and passed upon by the board, which must be at one of its regular sessions. The lowest responsible bid must in all cases be accepted, and the contracts for such buildings shall be so conditioned that not more than one-half of the payment for the same shall be made until the contract shall be executed and the buildings completed to the satisfaction and acceptance of the board. Such board may further require a bond to accompany each bid, conditioned that the bidder will enter into a contract with approved sureties for the performance of the work in accordance with the plans and specifications in case his bid is accepted. The provisions of this section shall apply to all contracts for fuel, stationery and all other articles for the use of the county, or labor to be performed therefor, when the amount to be paid for the same during any year exceeds the sum of one hundred dollars; provided, that in all such cases advertisement for bids therefor need not be for more than three consecutive weeks in some weekly newspaper published in such county, and provided also, that all contracts for the furnishing of stationery, blank books and supplies generally for all county officers shall be let at the first regular meeting in April to run for the period of one year.

§ 45, c.21, Pol.C.  
§ 1. c. 49, 1883.

§ 1926. **Unused buildings may be destroyed, when.** In any county containing a population of less than six thousand inhabitants as shown by the last state or federal census it shall be lawful for the board of county commissioners when petitioned by one hundred or more of the voters of such county, to sell or repair any building owned by the county and not used for county purposes and which is unsafe to remain standing, or to cause such building to be torn down and to do any thing in the premises which a private owner might or could do with his property.

§ 1. c. 44, 1893.  
am'd.

§ 1927. **Appeals lie from decisions of board.** From all decisions of the board upon matters properly before it an appeal may be taken to the district court by any person aggrieved, upon filing an undertaking in such sum and with such sureties as may be approved by the county auditor, conditioned that the appellant will prosecute such appeal without delay and pay all costs adjudged against him in the district court. Such undertaking shall be executed to the county and may be sued on in the name of the county. The state's attorney upon the written demand of at least seven taxpayers of the county shall take an appeal from any action of the board of county commissioners to the district court when the interests of the county are affected, which appeal shall be taken in the name of the county, and in such case no bond shall be required. Upon serving the notice provided for in the next section the county auditor shall proceed the same as if an undertaking had been filed and his fees for making the transcript shall be paid as other claims by the county.

§ 46, c.21, Pol.C.  
§ 1. c. 5, 1883.  
am'd.

§ 47, c. 21, Pol.C.

**§ 1928. Appeal, how taken.** Such appeal must be taken within thirty days after the decision of the board by serving a written notice of appeal upon one of the members of the board; and the county auditor shall upon the filing of the undertaking and the payment of his fees as hereinafter provided make out a complete transcript of the proceedings of such board relating to the matter in controversy and shall deliver the same to the clerk of the district court.

§ 48, c. 21, Pol.C.

**§ 1929. Appeals to be filed, when.** Such appeal shall be filed on or before the first day of the next term of the district court after such appeal is taken and the cause shall stand for trial at such term.

§ 49, c. 21, Pol.C.

**§ 1930. Appeals docketed and tried de novo.** All appeals thus taken shall be docketed as other causes pending in the district court and the same shall be heard and determined de novo.

§ 50, c. 21, Pol.C.

**§ 1931. Power of district court.** The district court may enter a final judgment and cause the same to be executed, or may send the same back to the board with an order how to proceed and require such board to comply therewith by mandamus, or by attachment for contempt.

§ 51, c. 21, Pol.C.

**§ 1932. Officers to make settlement.** All treasurers, sheriffs, clerks, constables and other officers chargeable with money belonging to any county shall render their accounts to and settle with the county commissioners at the time required by law and pay into the county treasury any balance which may be due the county, taking duplicate receipts therefor and deposit one of the same with the county auditor within five days thereafter.

§ 10, c. 49, 1879.

**§ 1933. Board to ascertain amount of redemption money.** It is the duty of the board at each annual meeting to examine the county treasurer's tax sale book and stub receipts and ascertain the amount of redemption money in the treasury and require such treasurer to account for the same.

§ 52, c. 21, Pol.C.

**§ 1934. Penalty for failure to render or settle accounts.** If any person thus chargeable shall neglect or refuse to render true accounts or settle as aforesaid, the board of county commissioners shall adjust the accounts of such delinquent according to the best information it can obtain and ascertain the balance due the county and order suit to be brought in the name of the county therefor; and such delinquent shall not be entitled to any commission and shall forfeit and pay to the county a penalty of twenty per cent on the amount of funds due the county.

§ 53, c. 21, Pol.C.  
1. c. 139, 1881.

**§ 1935. Warrants draw interest, when.** All county warrants hereafter drawn by the proper authorities shall, after having been presented to the county treasurer for payment and by him indorsed "not paid for want of funds," from such date draw interest at the rate of seven per cent per annum.

§ 54, c. 21, Pol.C.  
2. c. 51, 1887.  
am'd.

**§ 1936. Proceedings of board to be published.** It shall be the duty of the board to cause to be published in three newspapers published in its county, or in case there are not three newspapers within the county qualified to make such publication, then in as many as there are, a full and complete report of all its official proceedings at each regular and special meeting, such proceedings to be published as soon after each meeting as practicable, and the board shall pay at the rate of twenty-five cents per square of twelve lines of solid brevier type or its equivalent to each newspaper designated to publish such proceedings, which shall file or cause to be filed with the county auditor an affidavit of publication executed in proper form;

provided, that not more than two newspapers in any congressional township shall be so designated and, when there are but two papers in the county and both are in the same congressional township, the commissioners shall designate but one of such papers. In case there is no newspaper published in the county the board shall cause such proceedings to be published in such newspaper in the state as has the largest circulation in such county and shall also cause such report to be posted in three public places in the county, one of which places shall be the office of the county auditor.

§ 1937. **Auditor to furnish copy of proceedings.** The county auditor shall make out a full and complete report of the proceedings of each regular and special meeting of the board and transmit the same to the publishers of the newspapers selected by such board to publish such proceedings, such report to be made out and transmitted within one week from the time such proceedings are had. § 55, c. 21, Pol.C. am'd.

§ 1938. **Proceedings to be published, when.** It shall be the duty of the publisher of each newspaper selected to publish the proceedings of the board to cause such proceedings to be published in the issue of his paper next succeeding the time of their reception. § 56, c. 21, Pol.C. am'd.

#### ARTICLE 8.—DEPOSITORIES OF COUNTY FUNDS.

§ 1939. **Commissioners to designate depositories.** The board of county commissioners of each county in this state at its first regular meeting after the adoption of this code and thereafter at its first regular meeting in January of each odd numbered year shall designate one or more national or state banks in its county as county depositories, in which all the funds of such county shall be deposited. § 2, c. 49, 1893. am'd.

§ 1940. **Proposals, advertisement for.** The county auditor of each county shall advertise in one or more newspapers of the county for at least two weeks immediately prior to such meeting for sealed proposals for the deposit of the funds of such county, which advertisement shall state the date up to which such proposals will be received, which date shall be the first day of the meeting of the board at which such proposals are to be opened. Such proposals shall state in writing what rate of interest will be paid on the average daily balances during the month, interest to be paid monthly, on condition that such funds with accrued interest shall be held subject to draft at all times on demand. Such proposals shall be inclosed in sealed envelopes addressed to the county auditor and marked "proposals for deposit of county funds" and shall be by the county auditor filed in his office. § 3, c. 49, 1893. am'd.

§ 1941. **Proposals, acceptance of. Bonds.** Such proposals shall be presented to the board at such meeting and then, and not until then, opened by the county auditor in the presence of the board, and the board shall thereupon proceed to accept the proposal of the bank or banks offering the highest rate of interest not inconsistent herewith, subject to the filing of a satisfactory bond as hereinafter provided, the amount of which bond shall then and there be fixed by the board. Before any bank shall be designated as such depository it shall submit to the board for its approval a bond payable to the county, conditioned for the safe-keeping and repayment of any funds deposited in such bank, which bond shall be signed by not less than five freeholders of the county as sureties, such bond to be in the sum required by the board, but in no case less than double the probable amount of funds to be deposited in such bank. If at any time the amount of funds on deposit in any of such depositories shall exceed § 4, c. 49, 1893. am'd.

one-half the amount named in such bond, it shall be the duty of the board at its next regular meeting thereafter to require from such depository an additional bond in a sum not less than twice the amount of such excess. Such bond shall be approved by the board and the approval thereof indorsed thereon by the chairman of the board and by him deposited with the county auditor, and any bank whose bond shall have been so approved shall thereupon be designated by the board as a county depository and shall continue as such until such time as the board shall readvertise for bids as aforesaid. If the board fails or refuses to approve any such bond the same may be presented to the judge of the district court, upon three days' notice to the county auditor, who shall proceed to hear and determine the sufficiency of such bond and may approve or disapprove the same as the facts warrant. If he approves such bond said bank shall be declared a public depository as aforesaid. The sureties on such bond shall be required to justify as required by law in arrest and bail proceedings.

- § 5, c. 49, 1893. **§ 1942. Equal bidders. Depository, how determined.** When two or more banks in the same county proposing to become depositories offer the same rate of interest it shall be the duty of the board to select impartially as many of such banks as depositories as offer ample security for such deposit, requiring from each of such banks bonds of equal amount. In estimating the value of the security offered by any proposed depository the capital, surplus and general credit of the bank shall be taken into consideration, as well as the bonds proposed to be given.
- § 6, c. 49, 1893. **§ 1943. Two or more depositories. Duty of treasurer.** In case two or more banks are designated as depositories the county treasurer shall as far as practicable, keep in each of the several depositories equal balances at all times; provided, that in counties where two or more banks are designated as depositories the amount deposited in any bank shall not exceed the assessed capital of such bank.
- § 7, c. 49, 1893. **§ 1944. Duty of board in designating depositories.** Further to secure the safety of the county funds deposited under the provisions of this article, the board of county commissioners shall satisfy itself of the responsibility of the several banks proposing to act as depositories, and no bank offering more than three per cent per annum on deposits subject to check shall be designated as a depository under the provisions of this article.
- § 1, c. 49, 1893. **§ 1945. Treasurer to deposit funds.** All funds of the county shall be deposited in the name of the county by the county treasurer as soon as received by him in such bank or banks as shall have been designated as county depositories.
- § 9, c. 49, 1893. **§ 1946. Penalty for violation.** If any county treasurer shall deposit any of the funds of his county or loan the same in any manner except in accordance with the provisions of this article he shall be liable to a penalty of five hundred dollars for each deposit or loan so made.
- § 8, c. 49, 1893. **§ 1947. Monthly statement by depository.** Each depository shall furnish to the county auditor on the first day of each month an itemized statement of the county's account with such depository, duly verified by the affidavit of the cashier of such bank, which statement shall be filed and carefully preserved in the office of the county auditor. All sums of interest accruing on the funds deposited as aforesaid shall be credited to such deposit account on the



first day of each month for the preceding month and a statement of such interest shall be rendered by such depository to the county auditor on the first day of each month and the auditor shall charge the treasurer with the amount thereof and credit the same to the general fund of the county.

§ 1948. **Checks, how signed.** All checks drawn upon the county depositories shall be signed by the county treasurer in the name of the county by himself as treasurer. § 10, c. 49, 1893.

§ 1949. **Duty of board in county where only one bank is located.** It is the duty of the officers mentioned in this article to comply with the provisions hereof; provided, that in counties where only one bank is located the board of county commissioners shall designate such bank a depository without advertising for bids if such bank agrees to pay interest at the rate of at least three per cent per annum and complies with the provisions of the foregoing sections. In counties where there is no bank located or where no bank offers to comply with the requirements of this article the board must designate some bank or banks outside of such county as depositories, but such bank or banks must furnish bonds according to the provisions hereof. § 11, c. 49, 1893, am'd.

§ 1950. **Treasurer exempt from liability, when.** When the funds of any county are deposited by the county treasurer as provided herein, such treasurer and his sureties shall be exempt from all liability thereon by reason of loss of any such funds from the failure, bankruptcy or any other act of any such bank to the extent only of such funds in the hands of such bank or banks at the time of such failure or bankruptcy. § 12, c. 49, 1893.

§ 1951. **Violation of this article a misdemeanor.** Any officer violating any of the provisions of this article shall be deemed guilty of a misdemeanor. § 13, c. 49, 1893, am'd.

ARTICLE 9.—REGISTER OF DEEDS.

§ 1952. **Record of instruments.** The register of deeds shall keep a full and true record in proper books kept for that purpose of all deeds, mortgages, bills of sale, chattel mortgages and all other instruments authorized by law to be admitted to record, filed with him for that purpose, if the person so filing them for record shall first pay him the fees provided by law for filing or recording the same. When an instrument is filed with him for record he shall indorse thereon the date and hour and minute of the day of such filing and when recorded, also the pages and designating the letter or number of the book of records in which the record thereof is made; and in a note at the foot of the record of each instrument recorded by him he shall write the date, the hour and minute of the day when it was filed with him and the page on which it is recorded. § 57, c. 21, Pol.C. am'd.

§ 1953. **Seal of register of deeds.** He shall provide himself with a seal and make an impression of the same upon each instrument to which he attaches his official signature. Such seal shall bear the following inscription: "Register of deeds of.....County." § 1, c. 95, 1893, am'd.

§ 1954. **Numerical index required.** He shall prepare from the records of his office and thereafter keep a numerical index of the deeds, mortgages and other instruments of record in his office affecting or relating to the title to real property. § 58, c. 21, Pol.C.

§ 1955. **Separate indexes to be kept.** There shall be prepared and kept one index of the deeds and contracts and other instruments, not liens merely, and another index of the mortgages and § 59, c. 21, Pol.C.

other liens, which indexes shall be substantially or as near as may be in the following forms:

FORM OF NUMERICAL INDEX TO CITY AND TOWN PROPERTY.

BLOCK NO. 1, IN .....

No. of Lot.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.
1														
2														
3														
4														
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9														
10														
11														
12														
13														
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16														
17														
18														

FORM OF SECTIONAL SYSTEM OF NUMERICAL INDEX TO REAL ESTATE.

TOWNSHIP NO ..... RANGE NO ..... SECTION NO .....

No. of Section.	Quarter Sec.	Part Qr. Sec.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	Vol.	Page.	
1	N. E.	N. E. quarter													
		N. W. quarter													
		S. W. quarter													
		S. E. quarter													
	N. W.	N. E. quarter													
		N. W. quarter													
		S. W. quarter													
		S. E. quarter													
	S. W.	N. E. quarter													
		N. W. quarter													
		S. W. quarter													
		S. E. quarter													
S. E.	N. E. quarter														
	N. W. quarter														
	S. W. quarter														
	S. E. quarter														

§ 1956. **Grantor and grantee indexes required.** He shall § 1. c. 134, 1887.  
prepare from the records of his office and keep grantor and grantee indexes of the deeds, mortgages and other instruments of record in his office, affecting or relating to the title of real property, in addition to the numerical indexes above provided for.

§ 1957. **Separate indexes of deeds and liens.** He shall pre- § 2. c. 134, 1887.  
pare and keep one index of the deeds and contracts and other instruments not liens merely, and another index of the mortgages and other instruments which are liens, which indexes shall show the name of the grantor and grantee, dates of instruments, dates of filing and description of property affected.

§ 1958. **Document number. Priority of filing.** It shall be the duty of each register of deeds in this state when any deed, patent, mortgage, receiver's receipt, contract, notice of lis pendens, copy of decree or other instrument affecting the title to, or creating a lien upon any real estate within his county, is filed in his office, immediately to write or stamp thereon a document number, which numbers shall be consecutive in the order of filing commencing with number one in each county, and following in the order of filing of the various documents; and priority of number shall be prima facie evidence of priority of filing; provided, that when such register of deeds shall receive by mail or other like inclosure more than one instrument at a time he shall affix such numbers in the consecutive order in which such instruments actually come to his hand on opening such inclosure save that when more than one instrument is received from the same source at the same time he may follow such directions if any, as the sender may give in such numbering.

§ 1959. **Reception book to be kept.** There shall be provided by the county commissioners of each county in the state in the same manner that other record books are provided a book for use in the office of the register of deeds to be known as the reception book, in which shall be entered, immediately after numbering, all documents and papers enumerated in the last section and such book shall be ruled in parallel columns showing, in the first column at the left hand side of the page, the document number; in the second column, the date of filing; in the third column, the grantor; in the fourth column, the grantee; in the fifth column, the character of the instrument; in the sixth, the book and page where recorded; in the seventh, to whom delivered; and in the last column at the right, a brief description of the property, if any, described therein, and such book shall be a part of the public records of the office and open to public inspection during office hours.

§ 1960. **Duty of register of deeds.** When such instruments are numbered and entered in the reception book and indexed, they shall be recorded or filed as now provided by law and it shall be the duty of the register of deeds to write or stamp, or cause to have written or stamped at the beginning of the record thereof, if recorded, the words "document number" and add thereto the number stamped or written on such document and to add, immediately after the record of such instrument, a certificate setting forth that the same was filed in his office, giving date and hour as now provided by law, which certificate he shall authenticate with his official signature, but to which he need not affix his official seal.

**§ 1961. Record, when complete. Penalty for alteration.** The affixing of the signature of the register of deeds to such record shall be deemed to have completed the record thereof, and any person who shall thereafter willfully erase, add to, interline, mutilate, conceal, destroy or in any manner change such record shall be deemed guilty of a violation of section 6959 of the penal code of this state and on conviction thereof be punished as therein provided.

**§ 1962. Chattel mortgages excluded.** The last four sections shall not be construed to extend to or cover the filing and indexing of chattel mortgages as now provided by law.

#### ARTICLE 10. — COUNTY TREASURER.

§ 93, c.21, Pol.C.  
am'd.

**§ 1963. Duties of.** It shall be the duty of the county treasurer to receive all moneys belonging to the county from whatever source they may be derived and other moneys which by law are directed to be paid to him, and all moneys received by him for the use of the county shall be paid out by him only on the warrant of the board of county commissioners drawn according to law, except as otherwise specially provided, and all other moneys shall be paid over by him as provided by law.

§ 94, c.21, Pol.C.  
am'd.

**§ 1964. Method and publicity of accounts.** He shall be the collector of taxes and shall be charged with the amount of all tax lists in his hands for collection, and credited with the amounts collected thereon, and the delinquent list, and shall keep a fair and accurate current account of the moneys by him received, showing the amount thereof, the time when, from whom and on what account received; also of all disbursements by him made showing the time when, to whom, on what account and the amount paid; and he shall so arrange his books that the amounts received and paid on account of each separate and distinct fund or appropriation shall be exhibited in separate and distinct columns and accounts, and he shall at all times exhibit such accounts, when desired, to the state, county or school officers entitled to examine the same, and shall at any time pay over the balance in his hands to the proper officer, upon receiving proper vouchers.

§ 95, c.21, Pol.C.

**§ 1965. Board examines and settles accounts.** The books, accounts and vouchers of the county treasurer and all moneys, warrants or orders remaining in the treasury shall at all times be subject to the inspection and examination of the board of county commissioners and at the regular meetings of the board in January and July of each year and at such other times as it may direct, he shall settle with the board his accounts as treasurer, and for that purpose shall exhibit to it all his books, accounts and moneys and all vouchers relating to the same to be audited and allowed, which vouchers shall be retained by the board as evidence of such settlement; and if found correct the account shall be so certified; if not, he shall be liable on his bond.

§ 96, c.21, Pol.C.  
am'd.

**§ 1966. To insure county property.** When directed by the board, he shall cause to be insured at the expense of the county any or all of the public buildings of the county and other property belonging to the same, in the name of the county or otherwise as the board may direct; and in case of the destruction or damage to the buildings or the property so insured, such treasurer shall demand and

receive the moneys due on account of such insurance and pay the same into the county treasury, and such moneys shall be applied to the fund for rebuilding or restoring such buildings or property.

§ 1967. **To certify abstracts. Fees.** It shall be his duty to attach his certificate to each abstract of title to real estate of his county that may be presented to him for that purpose, which certificate shall show the amount of taxes due and unpaid against, or tax title affecting the land described in such abstract, as the same appears from the records in his office; and as compensation therefor he shall receive the sum of twenty-five cents for each abstract so certified, and for each failure or refusal to comply with the provisions of this article, he shall be liable to a fine of not exceeding one hundred dollars. § 1. c. 1, 1887.

§ 1968. **Report to township clerks, when.** The county treasurer of each county shall, between the fifth and twentieth days of February of each year, notify by mail the township clerk of each organized township in his county of the amount of money on hand in the county treasury belonging to the township on the fifth of February, the amount belonging to each fund being stated separately. He shall also between the fifteenth day of November and the first day of December of each year, mail a like notice to each township clerk stating the amount of money in the county treasury belonging to the township on the fifteenth day of November, the amount in each fund being stated separately. § 1. c. 47, 1895.

§ 1969. **Statement of amount paid.** Whenever the county treasurer pays or remits any township funds to a township treasurer he shall on the same day mail to the township clerk of such township a statement of the amount so paid or remitted, stating the amount belonging to each fund separately. § 2. c. 47, 1895.

§ 1970. **Township clerk to keep record.** The township clerk shall make a record of the statements thus received from the county treasurer, and shall keep an account of the township funds in the same manner as is required of the township treasurer; and at the annual township meeting in March of each year the books of each officer shall be examined, compared and balanced. § 3. c. 47, 1895.

#### ARTICLE 11.—COUNTY AUDITOR.

§ 1971. **Clerk of board of county commissioners.** The county auditor shall by virtue of his office be clerk of the board of county commissioners of his county and he shall keep an accurate record of its official proceedings and carefully preserve all the documents, books, records, maps and other papers required to be deposited or kept in his office, and prepare a financial statement of the county annually, unless otherwise ordered by the board, and carefully do and perform all other acts and duties required by law. § 4. c. 10, 1887.

§ 1972. **To keep account current with treasurer.** He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with him any receipt given by the treasurer for money paid into the treasury, he shall file such receipt in his office and charge the treasurer with the amount thereof. § 5. c. 10, 1887.

§ 1973. **To deliver moneys and records to successor.** On going out of office he shall deliver up to his successor in office all the moneys, books, records, documents, maps, papers, vouchers and other § 6. c. 10, 1887.

property in his hands belonging to the county, and in case of his death his personal representatives shall in like manner deliver the same to his successor as aforesaid.

§ 7. c. 10, 1887.  
am'd.     **§ 1974. To draw all county warrants.** He shall draw warrants on the county treasurer in favor of all persons entitled thereto in payment of all claims and demands chargeable against the county which have been legally examined, allowed and ordered paid by the board of county commissioners; also, for all debts and demands against the county when the amounts are fixed by law, and which are not directed to be audited by some other person or tribunal. All warrants must distinctly specify the liability for which they are drawn and when it accrued.

§ 7. c. 10, 1887.  
am'd.     **§ 1975. Warrants consecutively numbered and registered.** All warrants issued by the county auditor during each year, commencing with the first Monday in January, must be numbered consecutively and the number, date and amount of each and the name of the person to whom payable and the purpose for which drawn, must be stated therein and they must at the time they are issued be registered by him in a book kept for that purpose.

§ 63. c. 21, Pol.C.     **§ 1976. General duties.** He shall do, perform and transact all county business without any extra or greater compensation than is allowed by law; and shall keep all the books required to be kept by the county commissioners; shall file and preserve in his office all accounts, vouchers and other papers pertaining to the settlement of any and all accounts to which the county shall be a party, copies of which, certified under the hand and seal of the auditor, shall be admitted as evidence in all courts in this state.

§ 1. c. 73, 1881.  
am'd.     **§ 1977. Election duties.** He shall perform all the duties required of him by law relative to the making out and delivering notices of general and special elections, making abstracts of and canvassing the votes cast at any such election, issuing certificates of election and forwarding the abstracts of votes cast at such elections to the secretary of state; and whenever the county commissioners for any cause shall fail or refuse to call special elections, the county auditor shall have authority to provide for and call any such election upon the petition of a majority of the legal voters of the county, to be determined by the poll lists of the last preceding general election.

§ 11. c. 10, 1887.     **§ 1978. Liability of auditor.** If any county auditor fails to make settlement or pay over any moneys with which he stands charged at the time and in the manner prescribed by law or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against him and his sureties in the district court of such county, and he shall be proceeded against as provided by law in other cases. In case of suspension under the provisions of this section, such auditor, if restored to office, shall not be deprived of his salary during the time of such suspension and the reasonable expenses of his defense upon such hearing shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty, his office shall be deemed vacant.

ARTICLE 12.—STATE'S ATTORNEYS.

**§ 1979. Duties of.** The state's attorney is the public prosecutor, and must:

1. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.

2. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed; and for that purpose, when not engaged in criminal proceedings in the district court must attend upon the magistrates in cases of arrest when required by them, except in cases of assault and battery and petit larceny and attend before and give advice to the grand jury whenever cases are presented to them for their consideration.

3. Draw all indictments and informations, defend all suits brought against the state or his county, prosecute all bonds forfeited in the courts of record and all actions for the recovery of debts, fines, penalties and forfeitures accruing to the state or his county.

4. Deliver receipts for money or property received in his official capacity, and file duplicate receipts thereof with the county auditor.

5. On the first Mondays of January, April, July and October in each year file with the county auditor an account, verified by his oath, of all money received by him in his official capacity during the preceding three months and at the same time pay it over to the county treasurer.

6. Give when required, and without fee, his opinion in writing to the county, district, township and school district officers, on matters relating to the duties of their respective offices.

7. Keep a register of all official business, in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.

**§ 1980. Adviser of county board. Must oppose illegal claims.** He is the legal adviser of the board of county commissioners. He must attend their meetings when required, and must oppose all claims and accounts presented against the county which are unjust or illegal.

**§ 1981. To institute actions to recover moneys illegally paid.** If the board of county commissioners without authority of law orders any money paid as a salary, fees or for any other purpose, and such money has been actually paid, or if any other county officer has drawn any warrant in his own favor or in favor of any other person, without being authorized by the board of county commissioners or by law, and the same has been paid, the state's attorney is empowered, and it is his duty to institute an action in the name of the county against such person to recover the money so paid, and no order of the board of county commissioners therefor is necessary to maintain such action; but when the money has not been paid on such order or warrants, it is the duty of the state's attorney upon receiving notice thereof, to commence an action in the name of the county to restrain the payment of the same, and no order of the board of county commissioners is necessary to maintain such action.

**§ 1982. Not to present or advocate claims against county.** The state's attorney, except for his own services, must not present any claim, account or other demand for allowance against the county, nor in any way advocate the relief asked on the claim or demand made by another.

**§ 1983. Not to accept fee or reward. Traveling expenses.** He shall not receive any fee or reward from or on behalf of any prosecutor or other individual for services in any prosecution or business

§ 6. c. 43, 1983.  
am'd.

to which it shall be his official duty to attend, nor be concerned as attorney or counselor for either party, other than for the state or county, in any civil action depending on a state of facts upon which any criminal prosecution then pending shall depend; nor shall any state's attorney be eligible to or hold any judicial office whatever. When required to go to any other county or from one part to another part of his county to transact any official business as such state's attorney, he shall be entitled to receive from his county the amount of his actual and necessary expenses in transacting such business, in addition to the salary fixed by law, which expenses shall be audited and paid by the board of county commissioners as other county expenses are audited and paid.

§ 8, c. 43, 1883.

**§ 1984. To receipt for public moneys.** It shall be his duty, whenever he shall receive any moneys from fines, bonds, penalties or costs, to deliver to the officer or person paying the same duplicate receipts, one of which shall be filed by such officer or person in the office of the county treasurer.

§ 10, c. 43, 1883, am'd.

**§ 1985. Penalty for failure to pay over moneys.** Whenever such state's attorney shall refuse or neglect to account for or pay over the moneys so received by him as required by law, he shall be liable to a fine of not less than fifty dollars nor more than two hundred dollars, and it shall be the duty of the county treasurer to cause an action to be instituted upon the bond of such state's attorney for the recovery of the moneys so received and unpaid by him.

§ 7, c. 43, 1883, 1. c. 59, 1883, am'd.

**§ 1986. Court may appoint state's attorney, when and how.** The district court whenever there shall be no state's attorney for the county or when the state's attorney is absent or unable to attend to his duties may, when necessary, appoint by an order to be entered in the minutes of the court, some suitable person, an attorney at law, to perform for the time being the duties required by law to be performed by the state's attorney, and the person so appointed shall thereupon be vested with all the powers of such state's attorney for that purpose; and the district court shall by order, to be entered in the minutes of the court, fix his fee therefor which amount shall be allowed by the board of county commissioners, and which amount shall be deducted from the salary of the state's attorney. Nothing in this section shall be so construed as to give the court the power permanently to fill vacancies in such office, but such power is vested in the board of county commissioners as elsewhere provided in this code.

**§ 1987. State's attorney may appoint assistant.** The state's attorney is authorized and empowered to appoint an assistant state's attorney within his county and shall be responsible under his official bond for the acts of such assistant.

**§ 1988. Judge may appoint special counsel. Compensation.** The judge of the district court may in his discretion appoint special counsel to assist the state's attorney in important cases. Such special counsel shall be paid a reasonable fee therefor to be approved by the court and paid by the county for which the services were rendered.

ARTICLE 13.—CLERK OF DISTRICT COURT.

**§ 1989. Duties of.** The clerk of the district court shall perform the following duties:

1. Take charge of and safely keep and dispose of according to law



all books, papers and records which may be filed or deposited in his office.

2. Act as clerk of the district court and attend each session thereof and upon the judge at chambers when required.

3. Issue all process and notices required to be issued; enter all orders and judgments proper to be entered; keep in his office a register of all actions, which must state the names of the attorneys and all fees charged therein and such other matters as are required by law.

4. Keep for the district court in separate volumes an index of all suits, labeled "General Index—Plaintiffs," each page of which must be divided into seven columns, under their respective heads alphabetically arranged as follows: "Number of action," "plaintiffs," "defendants," "date of judgment," "number of judgment," "page of entry of judgment in judgment book," "page of minute book of district court;" also an index labeled "General Index—Defendants," each page of which must be divided into seven columns as above provided.

5. Keep a minute book, which must contain the daily proceedings of the court, which may be signed by the clerk, which book must be indexed in the names of both plaintiff and defendant.

6. Keep two books, in one of which must be entered in alphabetical order the names of all persons who from the organization of the court have declared, or who may hereafter declare their intention to become citizens of the United States, and the date of such declaration, which book must be labeled "Declaration of Intention to Become Citizens of the United States," and in the other of which must be entered in alphabetical order the names of all persons who have been or may be hereafter admitted citizens of the United States by the court of which he is clerk, which book must be labeled "Naturalization, Final Papers," and enter in a separate column, opposite each name, the country of which such person was before a citizen or subject, the date of his admission and the page of the minute book or book of record containing the order admitting him a citizen.

7. Keep a book called "Register of Criminal Actions," in which must be entered the title and number of the action, with a memorandum of each paper filed, order or proceeding had therein, with the date thereof, and the name of each witness, number of days in attendance and his legal fees, with a proper index to the same.

8. Keep a book called "Book of Jurors' Certificates," in which must be contained the blank certificates and stubs to be filled, as provided in this code.

9. Keep a "Witness Book," in which must be contained blank certificates and stubs to be filled as provided in this code.

10. Keep a record of the attendance of all jurors, and of witnesses in criminal actions and compute the mileage of each.

11. Keep such other records and perform such other duties as are prescribed by law.

**§ 1990. Penalty for neglect of duty.** Any person who may at any time be injured or aggrieved by reason of the violation of the duties of his office upon the part of any such clerk, or by any willful neglect or refusal to perform any of the duties of his office, may institute legal proceedings upon the bond of such clerk and collect therein double the amount of damages actually sustained by such aggrieved person; and the county treasurer is also authorized and required for every such violation and neglect of duty to collect a fine of not less

§ 2, c. 14, Pol. C.  
am'd.

than fifty dollars for every such violation of duty, or refusal or neglect on the part of such clerk.

§ 5. c. 14. Pol. C.

**§ 1991. Clerk may adjourn court, when.** Whenever the judge, whose duty it may be to preside at any term of the district court, is hindered or delayed from any cause from being at the place of holding the same on the first, second or third day of the term, such clerk is authorized, and it shall be his duty to adjourn such court from day to day, until the fourth day of the term, and if such judge does not appear and take his seat to preside therein on the fourth day of such term, and the clerk does not at or before such fourth day receive a written order of adjournment, he shall adjourn such court without day; but the judge may by written order to the clerk made at any place in the state adjourn such court to such other time as he may appoint, and such adjourned term shall be considered as a regular term for all purposes.

ARTICLE 14.—SHERIFF.

**§ 1992. Duties of.** It is the duty of the sheriff:

1. To preserve the peace.
2. To arrest and take before the nearest magistrate, or the magistrate who issues the warrant, all persons who attempt to commit or have committed a public offense.
3. To prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.
4. To attend each term of the district court held within his county and obey its lawful orders and directions.
5. To command the aid of as many male inhabitants of his county as he may think necessary in the execution of his duties.
6. To take charge of and keep the county jail and the prisoners therein.
7. To indorse upon all notices and process received by him for service, the year, month, day, hour and minute of reception, and issue therefor to the person delivering it, on payment of his fees, a certificate showing the names of the parties, title of paper and time of reception.
8. To serve all process or notices in the manner prescribed by law.
9. To certify under his hand upon process or notices the time and manner of service, or, if he fails to make service, the reasons of his failure and return the same without delay.

**§ 1993. Foreign process, how returnable.** When process or notices are returnable to another county, the sheriff may inclose such process or notices, in an envelope, addressed to the officer or person sending them, and deposit it in the post office, prepaying postage.

**§ 1994. Return prima facie evidence.** The return of the sheriff upon process or notices is prima facie evidence of the facts stated in such return.

**§ 1995. Liability for failure to return.** If the sheriff does not return a notice or process with the necessary indorsement thereon without delay, he is liable to the party aggrieved for all damages sustained by him.

**§ 1996. Liability for failure to execute process.** If the sheriff to whom a writ of execution or attachment is delivered neglects or refuses after being required by the creditor or his attor-

ney to levy upon or sell any property of the party charged in the writ which is liable to be levied upon or sold, he is liable to the creditor for the value of such property.

§ 1997. **Liability for failure to pay over money.** If he neglects or refuses to pay over on demand to the person entitled thereto any money which may come into his hands by virtue of his office, after deducting his legal fees, the amount thereof with twenty-five per cent damages and interest at the rate of ten per cent per month from the time of demand may be recovered by such person.

§ 1998. **Liability for an escape.** A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment was made, is liable as follows:

1. When the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment, he is liable to the plaintiff as bail.

2. When the arrest is on an execution or commitment to enforce the payment of money, he is liable for the amount expressed in the execution or commitment.

3. When the arrest is on an execution or commitment, other than to enforce the payment of money, he is liable for the actual damages sustained.

Upon being sued for damages for an escape or rescue he may introduce evidence in mitigation or exculpation.

§ 1999. **Liability for a rescue.** He is liable for a rescue of a person arrested in a civil action equally as for an escape.

§ 2000. **Action, when cannot be maintained against.** An action cannot be maintained against the sheriff for a rescue, or for an escape of a person arrested upon an execution or commitment, if, after his rescue or escape and before the commencement of the action, the prisoner returns to the jail or is retaken by the sheriff.

§ 2001. **Office, when vacant.** When the sheriff is committed under an execution or commitment for not paying over money received by him by virtue of his office and remains committed for sixty days, his office shall become vacant.

§ 2002. **To execute all process.** A sheriff or other ministerial officer is justified in the execution of and must execute all process and orders regular on their face and issued by competent authority, whatever may be the defect in the proceeding upon which they were issued.

§ 2003. **To exhibit process.** The officer executing such process must at all times, so long as he retains it, upon request, show the same with all papers attached to any person interested therein.

§ 2004. **To open and adjourn court.** The sheriff in attendance upon court must act as the crier thereof and make proclamation of the opening and adjournment of the court and of any other matter under its direction.

§ 2005. **Service of papers on sheriff, how made.** Service of a paper, other than a process, may be made upon the sheriff by delivering it to him or to one of his deputies, or to a person in charge of the office during office hours, or, if no such person is there, by leaving it in a conspicuous place in the office.

§ 2006. **Coroner to execute process, when.** When the sheriff is a party to an action or proceeding the process and orders

therein, which it would otherwise be the duty of the sheriff to execute, must be executed by the coroner of the county.

§ 2007. **To perform all lawful duties.** The sheriff must perform such other duties as are required of him by law.

ARTICLE 15. — CORONER.

§ 67, c.21, Pol.C. § 2008. **Coroner to act as sheriff, when.** When there shall be no sheriff or deputy sheriff in any organized county, it shall be the duty of the coroner in such county to exercise all the powers and duties of that office until the same shall be filled as provided by law; and when the sheriff is committed to jail or otherwise disqualified the coroner shall be the keeper of the jail and perform the duties of sheriff during the continuance thereof. When the sheriff is sued the coroner shall serve the papers on him if required, and his return on all papers served by him shall have the same credit as the sheriff's return; and he shall receive the same fees as the sheriff for like service.

§ 68, c 21, Pol.C. § 2009. **To hold inquests.** The coroner shall hold an inquest upon the dead bodies of such persons only as are supposed to have died by unlawful means, except as otherwise specially provided. When he has notice of the dead body of a person supposed to have died by unlawful means found or being in his county, he is required to issue his warrant to the sheriff or any constable of his county, requiring him to summon forthwith three electors, having the qualifications of jurors of the county, to appear before the coroner at the time and place named in the warrant, or when the services of such sheriff or constable cannot conveniently be procured, then the coroner may summon such electors from the bystanders.

§ 69, c.21, Pol.C. § 2010. **Warrant, form of.** The warrant may be in substance as follows:

State of North Dakota, }  
County of..... } ss.

To the sheriff or any constable of said county:

You are hereby required to summon forthwith three electors, having the qualifications of jurors of your county, to appear before me at (name the place) at (name the day and hour or say forthwith), then and there to hold an inquest on the dead body of..... there lying and find by what means he died.

Witness my hand this.....day of.....18..

Coroner.

§ 70, c.21, Pol.C. § 2011. **Completing jury and oath.** If any juror fails to appear the coroner shall cause the proper number to be summoned from the bystanders and immediately proceed to empanel them and administer the following oath in substance:

You do solemnly swear (or affirm) that you will diligently inquire and true presentment make, when, how and by what means the person whose body here lies dead came to his death, according to your knowledge and the evidence given you.

§ 71, c.21, Pol.C. § 2012. **Subpœnas for witnesses. Contempts.** The coroner may issue subpœnas within his county for witnesses, returnable forthwith or at such time and place as he shall direct, and witnesses shall be allowed the same fees as in cases before a justice of the peace, and the coroner has the same authority to enforce the attendance of wit-

nesses and to punish them and jurors for contempt in disobeying his process, as a justice of the peace has when his process issues in behalf of the state.

§ 2013. **Oath to witnesses.** An oath shall be administered to the witnesses, in substance as follows: § 72, c.21, Pol.C.

You do solemnly swear that the testimony which you shall give to this inquest concerning the death of the person here lying dead shall be the truth, the whole truth and nothing but the truth. So help you God.

§ 2014. **Return by jury. Form.** The jurors having inspected the body, heard the testimony and made all needful inquiries, shall return to the coroner their inquisition in writing under their hands, in substance as follows, and stating the matters in the following form suggested, as far as found: § 74, c.21, Pol.C.

State of North Dakota, }  
County of..... } ss.

An inquisition held at.....in.....county, state aforesaid, on the.....day of..... A. D. 18..., before ....., coroner of such county, upon the body of.....(or person unknown) there lying dead, by the jurors whose names are hereto subscribed. The said jurors upon their oaths do say (here state when, how, by what person, means, weapon, or accident, he came to his death, and whether feloniously).

In testimony whereof, said jurors have hereunto set their hands the day and year aforesaid.

Such inquisition shall be attested by the coroner.

§ 2015. **Not to disclose name of accused.** If at such inquisition it is found that a crime has been committed on the deceased, the name of the person whom the jury believe has committed it shall not be made public until after the arrest directed in the next section. § 75, c.21, Pol.C. am'd.

§ 2016. **May order arrest.** If the person charged is present, the coroner may order his arrest by an officer or any other person present, and shall then make a warrant requiring the officer or other person to take him before a justice of the peace. If the person charged is not present, and the coroner believes he can be taken, the coroner may issue a warrant to the sheriff and constables of the county, requiring them to arrest the person and take him before a justice of the peace. §§ 76, 77, c. 21. Pol. C.

§ 2017. **Warrant returnable to a justice of the peace.** The warrant of the coroner in such case shall be of equal authority with that of a justice of the peace, and when the person charged is brought before the justice, the same proceedings shall be had as in other cases under a complaint, and he shall be dealt with as a person under a complaint in the usual form in criminal cases. § 78, c.21, Pol.C.

§ 2018. **Warrant to recite verdict.** The warrant of the coroner shall recite substantially the transactions before him and the verdict of the jury leading to the arrest, and such warrant shall be sufficient foundation for the proceedings of the justice. § 79, c.21, Pol.C.

§ 2019. **Testimony reduced to writing.** The testimony of all witnesses examined before the coroner's jury must be reduced to writing by the coroner or under his direction, and be subscribed by the witnesses respectively, and the coroner shall forthwith file such testimony together with a record of all proceedings had before him, in the office of the clerk of the district court of the county wherein § 1, c. 37, 1895.

such inquest is held. In all cases brought to the attention of the coroner wherein he does not deem it necessary to hold an inquest he shall file with such clerk a certificate setting forth the facts in relation thereto. The clerk of said court shall forthwith duly file, index and enter such case or proceeding in a book or books to be kept for that purpose, in the same manner as proceedings in civil actions are now entered, and shall receive from the treasury of said county the same fees as are now allowed by law for like services, and he shall index and enter in the manner above described all the proceedings of the coroner that have heretofore at any time been filed in his office.

§ 81, c.21, Pol.C.  
am'd.

**§ 2020. Disposition of body. Payment of expenses.** The coroner shall cause the body of each deceased person, which he is called to view, to be delivered to his friends, if any, but if there are no friends, he shall cause such body to be decently buried, and the expenses thereof shall be paid from the county treasury and the county shall be reimbursed therefor out of any property found with his body. The coroner shall certify an account of such expenses to the county auditor and the board of county commissioners shall allow the same if deemed reasonable and direct a warrant to issue therefor.

§ 82, c.21, Pol.C.

**§ 2021. Justice may act as coroner, when.** When there is no coroner, or in case of his absence or inability to act, any justice of the peace of the county is authorized to perform the duties of coroner in relation to dead bodies, and in such case he may cause the person charged to be brought before him by his warrant, and may proceed with him as a justice of the peace.

§ 83, c.21, Pol.C.

**§ 2022. Physicians summoned as experts, when.** In the above inquisition by a coroner, when he or the jury deem it requisite, he may summon one or more physicians or surgeons to make a scientific examination, and shall allow in such case a reasonable compensation, instead of witness fees.

§ 84, c.21, Pol.C.

**§ 2023. Disposition of property found on body.** The coroner must, within thirty days after an inquest upon a dead body, deliver to the county treasurer any money or other property which may be found upon the body, unless claimed in the meantime by the legal representatives of the deceased. If he fails to do so the treasurer may proceed against him for its recovery by a civil action in the name of the county.

§ 85, c.21, Pol.C.

**§ 2024. Treasurer's duty with money and property.** Upon the delivery of money to the treasurer he must place it to the credit of the county. If it is other property he must within thirty days sell it at public auction upon reasonable public notice and must in like manner place the proceeds to the credit of the county.

§ 86, c.21, Pol.C.

**§ 2025. Money, when and how paid.** If the money in the treasury is demanded within six years by the legal representatives of the deceased, the treasurer must pay it to them after deducting the fees and expenses of the coroner and of the county in relation to the matter; or it may be paid at any time thereafter upon the order of the board of county commissioners.

§ 87, c.21, Pol.C.

**§ 2026. Statement by coroner.** Before auditing and allowing the account of the coroner, the board of county commissioners must require him to render a statement in writing of any money or other property found upon persons on whom inquests have been held by him, verified by his oath, to the effect that the statement is true, and that the money or property mentioned in it has been delivered to the legal representatives of the deceased or to the county treasurer.

§ 2027. **To perform all lawful duties.** The coroner must perform such other duties as may be prescribed by law.

ARTICLE 16. — COUNTY SURVEYOR.

§ 2028. **Duties of.** The county surveyor shall make in a good and professional manner all surveys of land within his county which he may be called upon by the owner thereof or his representative, or directed by the district or county courts, the board of county commissioners or the board of township supervisors to make; and also all lands, tracts or lots owned by the county, and public roads, when so directed by said board; and his surveys shall be held as presumptively correct. § 97, c.21, Pol.C. am'd.

§ 2029. **Record of field notes and plats.** He shall transcribe the field notes and plats of such surveys into convenient and substantial record books to be furnished by the county, when the board of commissioners shall deem it advisable, and said records shall be entered in an orderly manner, easy of reference, and shall be delivered to his successor in office. They may be kept in the office of the county auditor and said record shall be competent evidence in all courts of the facts therein set forth. § 98, c.21, Pol.C.

§ 2030. **Resurvey and subdivision, how made.** The resurvey and subdivision of lands by all surveyors shall in all respects be according to the laws of the United States and the instructions issued by the officers thereof in charge of the public land surveys and in the subdivision of fractional sections bounded on any side by a meandered lake or river or the boundary of any reservation or irregular survey, the subdivision lines running toward and closing upon the same shall be run at courses in all points intermediate and equidistant, as near as may be, between the like section lines established by the original survey. § 99, c.21, Pol.C.

§ 2031. **Sworn chainmen in disputed cases.** Whenever the survey is of lines and monuments in dispute between parties, or is made by order of the district or county court, the chainmen must be disinterested persons, approved and sworn by the surveyor to measure justly and impartially to the best of their skill and ability. § 100, c.21, Pol.C.

§ 2032. **Fullness and accuracy of field notes and plats.** The record of the field notes and plats shall show distinctly of what piece of land it is a survey, at whose request it was made, what owners were notified and present, the date of the survey, the names of the chainmen and that they were approved and sworn by the surveyor, when so required by law. The courses shall be taken according to the true meridian, and the variation of the magnetic needle therefrom shall be noted, and also when any material change therein shall occur. § 101, c.21, Pol.C.

§ 2033. **Retracing lines to avoid errors.** In retracing lines or making any survey he shall take care to observe and follow the boundaries and monuments as run and marked by the original survey, but shall not give undue weight to partial and doubtful evidence or appearances of monuments, the recognition of which shall require the presumption of marked errors in the original survey, and he shall note an exact description of such apparent monuments. § 102, c.21, Pol.C.

§ 2034. **Assistants, how paid.** All necessary chainmen and other assistants must be paid for their services by the person for whom the survey is made, unless otherwise specially agreed. § 103, c.21, Pol.C.

ARTICLE 17. — COUNTY BONDS.

§ 1, c. 30, 1890.  
am'd.

§ 2035. **Bonds, how issued. Disputed claims.** Each organized county in this state is authorized and empowered by and through its board of county commissioners, when in the judgment of said board it is deemed to be to the best interests of the county, to issue its negotiable bonds in the name of said county for the sole purpose of funding or refunding the outstanding indebtedness of such county, represented by the county warrants, bonds or orders of such county; or for the purpose of funding and paying claims against such county which have heretofore been disputed, but which may have been or may hereafter be adjusted and allowed by such board; or for the purpose of paying any final judgment which may have been rendered against such county; provided, that the board in making settlement of disputed claims shall not allow interest at a greater rate than seven per cent per annum; provided, however, that no county shall in any event issue its bonds in any amount which, with its prior bonded indebtedness, will exceed the maximum indebtedness allowed by law; but the issuing of new bonds in lieu of outstanding bonds or indebtedness shall not be considered as the creation of a new debt.

§ 2, c. 30, 1890.

§ 2036. **Appeal in disputed claims.** Whenever any disputed or litigated claim shall have been adjusted and determined by the board, an appeal may be taken from said settlement in the manner and within the time now allowed by law to the district court in and for said county; and no bonds shall be issued as hereinafter provided until the expiration of the period allowed by law within which said appeal may be taken.

§ 3, c. 30, 1890.  
am'd.

§ 2037. **Bonds. Rate of Interest. Mode of issue.** Said bonds shall be in denominations of not less than one hundred dollars nor more than one thousand dollars, shall bear the date of their issue, and shall be made payable to the order of the purchaser in not less than five nor more than twenty years from their date, and bear interest not to exceed six per cent per annum, payable semiannually, with coupons attached for each interest installment; said bonds and coupons shall be signed by the chairman of the board of county commissioners and shall be attested by the county auditor. The seal of the county shall be affixed to each bond but not to the coupons. Such bonds shall be printed, lithographed or engraved on bond paper, and each bond shall state on its face that it is issued in accordance with the provisions of this article, and that portion of this article relating to the issuance of funding and refunding bonds shall be printed on the back of each bond. Such bonds may be made payable anywhere in the United States.

§ 4, c. 30, 1890.

§ 2038. **Bonds may be exchanged or sold.** Said bonds may be exchanged at par value for an equal amount of indebtedness of said county with the holder of such indebtedness, whether evidenced by county warrants, bonds or orders, judgment or adjusted claim; or said bonds may be sold by the board at not less than par value, and the proceeds applied solely to the payment of the indebtedness for which they were issued. A record of each bond so issued shall be kept by the county treasurer showing the number of each bond so issued, its date, amount, rate of interest, when and where payable, the amount received therefor, to whom sold, and how the proceeds were disposed of, and it shall be the duty of the county auditor to keep a duplicate account of the same.



§ 2039. **Tax to be levied.** The board of county commissioners shall levy each year upon the taxable property of the county a sufficient tax to pay the interest on said bonds as the same accrues, and a reasonable time before maturity a sufficient tax to provide a sinking fund for the payment of the bonds when they mature. § 5. c. 30. 1890.

§ 2040. **County treasurer to pay, when.** When said bonds and the coupons thereto attached mature, it shall be the duty of the county treasurer to pay the same on presentation out of any funds in his hands applicable thereto; and he shall then cancel them by writing or stamping across the face of each coupon or bond the words "paid this ..... day of ....." (inserting the date of the payment.) § 6. c. 30. 1890.

§ 2041. **Commission allowed treasurer.** The county treasurer shall be allowed a commission of one-fourth of one per cent on the face value of said bonds for receiving and disbursing all funds arising from the sale or exchange thereof and the commission herein provided for shall be in lieu of all other commissions allowed by law and shall be paid into the salary fund and be disposed of as is now provided by law. § 7. c. 30. 1890.

§ 2042. **Bonds negotiable, when.** Bonds issued in substantial conformity with this article shall in law be deemed negotiable. § 8. c. 30. 1890.

BONDS FOR COUNTY BUILDINGS.

§ 2043. **Power to bond.** Whenever any county in this state, having three hundred voters or more, shall have been organized for four years or more, and the county seat of such county has been permanently located as provided by law and the buildings occupied by such county for courthouse, office or jail purposes are inadequate to the wants thereof, or unsafe by reason of extraordinary risk of fire or otherwise, such county may issue bonds for the purpose of purchasing a site for and erecting a courthouse or jail, or both, under the restrictions and according to the provisions of this subdivision of this article. § 1. c. 42. 1889.  
§ 1. c. 43. 1893.

§ 2044. **Limit of issue.** No county shall issue its bonds under the provisions of the last section in excess of five per cent of its valuation according to the last assessment thereof, including all the outstanding indebtedness of such county at the time of issuing such bonds. § 2. c. 42. 1889.  
§ 1. c. 31. 1890.

§ 2045. **Election for bonds.** Whenever in the judgment of a majority of the board of county commissioners in any county which comes under the provisions of this subdivision such county has insufficient or inadequate buildings for its use for courthouse or jail, or both, such board may order an election for the purpose of determining by a vote of the electors of such county the question of issuing its bonds for the purpose of the erection of a courthouse or jail, or both, as by this subdivision provided, including the purchase of a site for such courthouse and jail, or both, at such county seat, if none is provided. Such election shall be held in the manner and upon the notice prescribed by law for other elections, but the published and posted notices of such election shall state its object, the amount of bonds to be issued, the denominations of such bonds, the length of time for which they shall run and the rate of interest which they shall bear, and the ballots shall have printed or written, or partly printed and partly written thereon "for issue of bonds" or "against issue of bonds" and if a majority of the ballots so cast shall be for the issue of bonds, then the county commissioners shall issue and dispose of said § 3. c. 42. 1889.

bonds as provided by this subdivision, and erect a courthouse or jail, or both, for the use of such county according to the provisions hereof.

§ 4. c. 42. 1889. am'd.

**§ 2046. Power of county commissioners. Contracts.** The board of county commissioners of any county erecting county buildings under the provisions of this subdivision shall have power to purchase ground for a site if necessary, let contracts for the building and completion of such courthouse or jail, or both, and the buildings connected therewith, and shall have the entire supervision of its construction; provided, that all contracts connected with the erection of such buildings shall be let to the lowest responsible bidder, after notice of the letting of such contracts shall have been published in one of the newspapers of such county, and in case there is no newspaper in such county, then in a newspaper in some adjoining county, for at least once a week for four consecutive weeks, before the letting of such contracts, and the board shall have power to reject any or all bids.

§ 5. c. 42. 1889.

**§ 2047. Board of auditors.** The county auditor, county treasurer and some qualified elector and freeholder of such county appointed by the board of county commissioners outside of its own number shall act as a board of auditors to audit accounts of such board of county commissioners in connection with the erection of county buildings, pursuant to the provisions hereof, and the members of such board of auditors shall receive for their services the sum of three dollars each for every day actually and necessarily employed in such capacity, to be paid upon the warrant of such board of county commissioners.

§ 6. c. 42. 1889.

**§ 2048. Denominations. Interest. Mode of issue.** All bonds issued pursuant to the provisions hereof shall be in denominations of not less than one hundred dollars and not more than one thousand dollars, shall bear the date of their issue, shall be made payable to the purchaser or bearer and become due in not less than ten years nor more than twenty years from their date and shall bear interest at the rate of not exceeding seven per cent per annum, payable annually, with coupons attached for each interest payment. The bonds and each coupon shall be signed by the chairman of the board of county commissioners and shall be attested by the county auditor. The seal of the county shall be affixed to each bond but not to the coupons, and said bonds shall each contain a recital in substantially the following words: "Issued in pursuance of sections 2043 to 2056 inclusive of the revised codes of 1895, authorizing and empowering organized counties to erect county buildings for courthouse and jail purposes and to issue and dispose of bonds to provide funds to pay therefor, and to provide for the payment of the principal and interest of such bonds." Such bonds shall be printed, engraved or lithographed on bond paper and may be payable anywhere in the United States. They shall be sold by the board of county commissioners at not less than their par value and the proceeds applied solely to the payment of the indebtedness incurred in the erection of a courthouse or jail or both, and the purchase of a site therefor.

§ 6. c. 42. 1889.

**§ 2049. Notice of sale.** No such bonds shall be sold until after having been duly advertised at least once a week for four consecutive weeks in one of the newspapers published at the seat of government, and for the same length of time at any other point deemed advisable by the board.

§ 6. c. 42. 1889.

**§ 2050. Proceeds.** The proceeds of the sale of such bonds shall be deposited in the treasury of such county, to be paid out by

the county treasurer on the order of such board. The county treasurer shall give an additional bond in double the amount of the bonds so issued and sold, and shall receive as compensation for the receiving and disbursing of all funds arising from the sale of such bonds one per cent of the par value of such bonds, and the compensation herein provided for shall be in lieu of all other commissions allowed him by law.

§ 2051. **Tax to be levied.** The board of county commissioners at or before the issuance of such bonds shall levy upon the taxable property of the county a sufficient tax to pay the interest on such bonds as the same accrues and the principal thereof when due. § 7, c. 42, 1889, am'd.

§ 2052. **Treasurer to pay and cancel at maturity.** When such bonds and the several coupons thereto attached mature it shall be the duty of the county treasurer to pay the same on presentation and to cancel them when paid. § 8, c. 42, 1889.

§ 2053. **Bonds to be registered.** Before the bonds are delivered to the purchaser they shall be presented to the county auditor, who shall register them in a book kept for that purpose and known as the "bond register," in which register he shall enter the number of each bond, its date, date of maturity, amount, rate of interest, to whom and where payable. § 9, c. 42, 1889.

§ 2054. **Bonds negotiable, when.** Bonds issued in substantial conformity herewith shall be in law considered negotiable. § 10, c. 42, 1889.

§ 2055. **Funding bonds, when issued.** Any county which has issued warrants or other evidences of indebtedness since the first day of January, 1887, for the purpose of building a courthouse or jail, or both, may issue bonds under the provisions of this subdivision to fund such warrants or other evidences of indebtedness and if such indebtedness was authorized by a majority vote of the qualified electors of such county previous to the incurring of the same, no new election shall be had, and the board of county commissioners of any such county is hereby authorized and empowered when in the judgment of such board it is deemed to the best interests of such county to issue such bonds, and to apply the proceeds solely to the redemption of such warrants or other evidences of indebtedness; provided, that the bonds issued under the provisions of this section shall bear a lower rate of interest than the outstanding indebtedness proposed to be funded. § 11, c. 42, 1889.

§ 2056. **When election not necessary.** Any county which has heretofore and since the first day of January, 1887, submitted to the voters of such county the question of building a courthouse or jail, or both, and issuing bonds therefor and upon such election the building of a courthouse or jail, or both, and the issuing of bonds therefor was authorized or directed by a majority vote of the qualified electors of such county as evidenced by a majority of the votes cast at such election upon said question so submitted to them, no new election shall be had, but such elections and the bonds when issued thereunder are hereby held and declared legal and valid as if the election had been held after the passage and approval of this act, and the board of county commissioners of any such county are authorized and empowered to issue such bonds, and with the funds so obtained from the sale thereof to construct a courthouse or jail, or both, and are also hereby empowered to purchase a site for such courthouse or jail, or both, at such county seat if none is provided and pay for the same out of any unappropriated moneys in the county treasury; or

contract in the name and in behalf of the county for the purchase and conveyance of such site, to be paid for from the proceeds of such bonds when negotiated.

CERTIFICATE OF DEBT LIMIT.

§ 1. c. 33, 1890.

**§ 2057. Certificate of debt limit necessary.** No bond or evidence of debt of any county, or bond of any township or other political subdivision of this state, shall be valid unless the same has indorsed thereon a certificate stating that such bond or evidence of debt is issued pursuant to law and is within the debt limit, which certificate in the case of a county shall be signed by the county auditor, and in the case of a township or other political subdivision shall be signed by the treasurer of such township or other political subdivision.

CHAPTER 27.

FEEES AND SALARIES OF COUNTY, TOWNSHIP AND OTHER OFFICERS.

ARTICLE 1. — STATE'S ATTORNEYS.

**§ 2058. Salary of.** As compensation for his services there shall be allowed and paid the state's attorney in each county in this state, an annual salary based, in counties having a population of over thirteen thousand, upon the population of such county, exclusive of Indians under the control of the United States or any agent thereof, as follows:

1. The salary of state's attorneys in all counties, having a population of less than thirteen thousand shall remain as now fixed.

2. In counties having over thirteen thousand and not exceeding eighteen thousand inhabitants the salary of the state's attorney shall be the sum of twelve hundred dollars; over eighteen thousand and not exceeding twenty thousand, the sum of fourteen hundred dollars; over twenty thousand, the sum of two thousand dollars; provided, that the compensation of such state's attorney shall not exceed the sum of two thousand dollars per annum in any one county.

**§ 2059. Population, how determined.** The county auditor shall determine the population of his county for the purposes of the foregoing section by taking the last census, state or federal, and adding thereto five per cent of the population as shown by such census for each year expiring after the year in which such census was taken; provided, however, that not more than twenty per cent shall be added to the census taken as a basis until the next succeeding census.

**§ 2060. Office to be furnished. Salary not diminished.** The county commissioners in each county, the population of which does not exceed ten thousand, shall provide a suitable and convenient office for the state's attorney or in lieu thereof may allow a reasonable sum not exceeding forty per cent of the salary prescribed by law for the rental and maintenance of such office. The salary of the state's attorney shall not be diminished during the term for which he was elected.

ARTICLE 2. — CLERK OF THE DISTRICT COURT.

§ 2061. **Salary of.** As compensation for his services there shall be allowed and paid to the clerk of the district court in each county, an annual salary based upon the population of his county as follows:

1. For the first three thousand inhabitants or fraction thereof, the sum of four hundred dollars.

2. In counties having more than three thousand inhabitants one hundred dollars for each additional one thousand inhabitants or major fraction thereof, but in no case to exceed two thousand dollars.

§ 2062. **Population, how determined.** The population of each county shall be determined for the purpose of ascertaining the salary of such clerk, in the manner provided in section 2059.

§ 2063. **Deputy clerk, when appointed.** In counties having more than fifteen thousand inhabitants, to be ascertained in the manner provided in section 2059, there shall be a deputy clerk of the district court; and in counties having a less population than fifteen thousand, the board of county commissioners may authorize the appointment of such deputy in its discretion, to serve for such time as the board deems necessary. The deputy shall be appointed by the clerk and shall receive a salary equal to one-half of the salary of the clerk during the time for which he is employed.

§ 2064. **Misdemeanor to receive deputy's salary.** It shall be a misdemeanor for a clerk of the district court to demand or receive any part of the salary of his deputy.

§ 2065. **County, how reimbursed.** For the purpose of reimbursing the county for the salaries of the clerk and his deputy, such clerk shall pay into the county treasury all fees of every description received by him. A violation of the provisions of this section shall constitute embezzlement.

§ 2066. **Fee book to be kept. Report each month.** The clerk shall keep in a book open to public inspection a correct itemized account of all money received by him as fees, and on the first day of each month he shall make a full and correct report to the board of county commissioners of all such money received by him during the previous month and since his last report, which report shall be duly itemized and verified by his oath. He shall pay into the county treasury on the first day of each month all money received as fees during the preceding month, and shall file the treasurer's receipt therefor with his report to the board of county commissioners.

§ 2067. **Fees to be charged.** Clerks of the district court shall charge and collect the following fees:

1. In actions for the recovery of money only, in which judgment is entered by default, for all services prior to execution, two dollars.

2. In all other actions in which judgment is entered by default, for services prior to execution, three dollars and fifty cents.

3. In special proceedings, for all services prior to appeal, four dollars.

4. In actions in which an issue of fact is tried, for all services prior to execution, five dollars.

5. In actions in which only a question of law is tried, the fees shall be the same as on default in like actions.

6. In addition to the foregoing fees, for all services growing out of a provisional remedy, there shall be charged and paid at the time

the remedy is applied for or the first paper in connection therewith filed, two dollars and fifty cents.

7. For issuing execution in any action, one dollar.

8. For filing and indexing a mechanic's lien, one dollar.

9. For filing and indexing any other paper authorized to be filed in his office, but not connected with any civil action or proceeding, twenty-five cents.

10. For making certified abstract of any judgment or certified copy of any judgment, order or other paper filed or recorded in his office, for the first four folios, fifty cents; for each additional folio, ten cents.

11. For entering satisfaction of any judgment or lien, twenty-five cents.

12. For taking declaration of intention to become a citizen of the United States and making a certified copy of the record thereof, one dollar.

13. For final naturalization papers, including copy of the record thereof, one dollar.

14. For each additional copy of either of such citizen's papers, fifty cents.

15. For entering and indexing commission of notary public, fifty cents.

16. For taking an acknowledgment or administering an oath, twenty-five cents.

17. For recording and indexing any paper not filed in an action or proceeding, for the first four folios, fifty cents; for each additional folio, ten cents.

18. For a certificate of the official capacity of a notary public or other officer, fifty cents.

19. For certifying an abstract of real property as to judgments and liens, for each person named in the abstract as to whom search is made, ten cents.

20. For receiving, keeping and paying out money in pursuance of law or an order of court, one per cent of the amount, which shall be paid by the person receiving such money.

21. For issuing commission to take depositions, fifty cents.

22. For certifying the record on appeal to the supreme court, or to the district court of any other county and transmitting the same, one dollar.

23. For all services on remittitur from the supreme court, two dollars.

24. For taking depositions, per folio, ten cents.

#### ARTICLE 3.—COUNTY JUDGES.

§ 1, c. 50, 1890.

**§ 2068. Salary, how determined.** As compensation for their services, there shall be allowed and paid to the judges of the county courts in all counties an annual salary, based upon the population thereof as follows: For the first three thousand inhabitants or fraction thereof, the sum of three hundred dollars; for the next three thousand inhabitants or fraction thereof, the sum of one hundred dollars additional for each one thousand inhabitants or major fraction thereof; and for each additional one thousand inhabitants or fraction thereof the sum of fifty dollars additional, to be paid by the county treasurer upon the warrant of the county auditor; and in all counties

wherein the county court has both civil and criminal jurisdiction, the county judge as compensation for such additional services, in addition to the salary hereinbefore provided, shall be paid one-half as much more; provided, that the salary of the county judge shall not exceed the sum of two thousand dollars in any county; provided, that the county judges may receive such fees as are allowed by law, in taking acknowledgments of deeds or other instrument and other acts, other than in the settlement of the estates of decedents, of wards, the guardianship of infants and the adjudication of civil and criminal actions; and no causes in probate commenced prior to the eighteenth day of March, 1890, shall be affected hereby.

§ 2069. **Provision for clerk hire.** The clerk of the county court shall receive no compensation from the county for his services unless such county shall have a population of at least fifteen thousand inhabitants, in which case there shall be allowed and paid to the judge of the county court for clerk hire the sum of six hundred dollars per annum, and in counties having a greater population than fifteen thousand inhabitants, an additional sum of fifty dollars per annum for each additional one thousand inhabitants or fraction thereof, such sum to be paid in the same manner as the salary of the county judge; provided, that in all counties having county courts with civil and criminal jurisdiction with a population of five thousand inhabitants or more, there shall be allowed and paid to the judge of such court as clerk hire, in lieu of that hereinbefore provided for, the sum of four hundred dollars per annum for the first five thousand inhabitants, and the further sum of fifty dollars per annum for each additional one thousand inhabitants, or major fraction thereof, such sum to be paid as above provided.

2. c. 50, 1890.  
12, c. 51, 1891.  
am'd.

§ 2070. **Population, how determined.** The county auditor shall determine the population of his county for the purpose of ascertaining the compensation to be paid to the county judge and the amount of such clerk hire, in the manner provided in section 2059.

3. c. 50, 1890.  
am'd.

§ 2071. **County to be reimbursed, how.** For the purpose of reimbursing the county for the salaries provided in the foregoing sections to be paid to the judges of the county courts, each petitioner for letters testamentary, of administration or guardianship, before filing the same in the county court, shall pay or cause to be paid into the county treasury, for the use and benefit of the county in whose county court proceedings are to be instituted to settle the estate of any deceased person, or for the appointment of a guardian, the following sums according to the value of the estate of such deceased person or of such ward, as appears from the sworn statement in the petition of such applicant: Five dollars when the value of the estate does not exceed five hundred dollars; ten dollars when the value of the estate exceeds five hundred dollars, but does not exceed the sum of one thousand five hundred dollars; fifteen dollars when the value of the estate exceeds one thousand five hundred dollars, but does not exceed two thousand five hundred dollars; twenty dollars when the value of such estate exceeds two thousand five hundred dollars, but does not exceed five thousand dollars; twenty-five dollars when the value of such estate exceeds five thousand dollars, but does not exceed ten thousand dollars; thirty dollars when such estate exceeds ten thousand dollars, but does not exceed fifteen thousand dollars; forty dollars when the value of such estate exceeds fifteen thousand dollars, but does not exceed twenty thousand dollars; fifty dollars when the

4. c. 50, 1890.

value thereof exceeds twenty thousand dollars, but does not exceed twenty-five thousand dollars, and seventy-five dollars in all cases where the value of such estate exceeds twenty-five thousand dollars; and in all cases in addition thereto, all sums necessarily expended in publishing or serving notices required by law. In all civil and criminal actions the same fees and costs shall be paid as in like actions in the district court the same to be paid to the judge of the county court, a record to be kept thereof and the same turned over by him to the county treasurer.

§ 5, c. 50, 1890. § 2072. **Payments to treasurer. Receipts.** When the payments provided for in the foregoing sections are made to the treasurer of the proper county he shall execute therefor duplicate receipts, one of which shall be filed with the county auditor and one with the judge of the county court.

#### ARTICLE 4.—COUNTY AUDITORS.

§ 1, c. 52, 1891. § 2073. **Salary of, how determined.** The salary of the county auditor shall be regulated by the value of the property in his county as fixed by the state board of equalization for the preceding year as follows: He shall be entitled to receive four mills on the dollar on the first one hundred thousand dollars, and one mill on the next three hundred thousand dollars and one-third of one mill on all sums in excess of said sums, not exceeding two million dollars, and one-fifth of one mill on all sums exceeding two million dollars; provided, that no county auditor shall receive for his personal services an amount to exceed two thousand dollars in any one year. But such officer shall not be required to account for fees for certifying to deeds. All fees received by such officer in excess of the above amount shall be paid into the salary fund of the county at the end of each month.

§ 2, c. 52, 1891. § 2074. **Provision for deputies.** If in the judgment of the board of county commissioners of any county it is deemed necessary for the prompt and accurate dispatch of the business in the office of the county auditor, that clerks or deputies be employed therein, they shall authorize the same, and the allowance for such clerk hire shall be paid in the same manner as all other similar claims against the county, but in no case shall the auditor be allowed for clerk hire unless such services have been actually rendered.

#### ARTICLE 5.—REGISTER OF DEEDS.

§ 3, c. 52, 1891.  
am'd. § 2075. **Salary of, how determined.** The register of deeds shall be entitled to receive one thousand dollars in counties where the assessed valuation does not exceed one million five hundred thousand dollars; one thousand two hundred dollars in counties where the assessed valuation exceeds one million five hundred thousand dollars, but does not exceed two million dollars; one thousand four hundred dollars in counties where the assessed valuation exceeds two million dollars, but does not exceed two million five hundred thousand dollars; one thousand six hundred dollars in counties where the assessed valuation exceeds two million five hundred thousand dollars, but does not exceed three million dollars; provided, that no register of deeds shall receive for his personal services an amount to exceed two thousand dollars in any one year.



**§ 2076. Fee book to be kept. Monthly reports. Penalty.** § 4, c. 52, 1891.

Each register of deeds shall keep a book provided by the county in which shall be entered each item of fees for services rendered and shall, within three days after the close of each calendar month and also at the end of his term of office, file with the county auditor a statement under oath showing the fees which he has received as such officer since the date of his last report, and also within three days, deposit with the county treasurer the total sum of such fees, which sum so deposited shall be placed to the credit of the special salary fund. Any register of deeds, who shall neglect or omit to charge or collect the fees allowed by law for services rendered, or shall fail or neglect to keep a record of the same, or to make a correct statement thereof to the county auditor, with intent to evade the provisions of this section, shall be deemed guilty of a misdemeanor.

**§ 2077. Deficiency in salary, how provided for.** In case the fees paid into the county treasury by the register of deeds shall not equal his salary as fixed herein, then such officer shall only be entitled to receive a sum equal to the fees paid into the treasury; but in case there is a deficiency in the salary of such officer for any month, such deficiency shall be made up from any excess of fees that may be paid into the county treasury by such officer during the calendar year in which such deficiency occurs. § 5, c. 52, 1891. am'd.

**§ 2078. Provision for deputies. Salaries.** If in the judgment of the board of county commissioners it shall be deemed necessary for the prompt and accurate dispatch of the business in the office of the register of deeds that deputies or clerks be employed therein, it shall by resolution fix the number of clerks to be employed and the compensation which they shall receive, which compensation shall be paid monthly from the special salary fund by warrant; provided, that the officers in whose office such deputies or clerks are to be employed shall have the sole power of appointing and removing them at pleasure; provided, further, that the total amount paid to the register of deeds for salary and clerk hire shall not exceed the amount of fees by such officer collected and in no case exceed the sum of five thousand dollars. Any officer who shall receive and appropriate to his own use and benefit any part of the salary allowed to any such clerk or deputy shall be guilty of a misdemeanor. § 6, c. 52, 1891.

**§ 2079. Fees to be charged.** The register of deeds shall charge and collect the following fees:

1. For recording a deed, mortgage or other instrument, and indexing, for the first four hundred words, seventy-five cents; for each additional folio, ten cents.

2. Copy of record, for each ten words, one cent.

3. Certificate and seal, twenty-five cents.

4. Making certified abstracts of title, for the first deed or transfer, one dollar, and for each additional deed or transfer, ten cents.

5. Whenever any person presents an abstract to the register of deeds who made the same for continuation of such abstract, it shall be his duty to continue the same and he shall be entitled to receive ten cents for each new transfer and twenty-five cents for his certificate thereto and no more.

6. Entering satisfaction of mortgage or lien, twenty-five cents.

7. For discharging notice of lis pendens, twenty-five cents.

8. For recording marks and brands, each, twenty-five cents.

7, c. 39, Pol. C.  
1, c. 1, 1881.  
1, c. 76, 1881.  
1, c. 83, 1893.  
am'd.

9. For filing and indexing a chattel mortgage or for filing and indexing a renewal of a chattel mortgage, twenty-five cents, but no fee shall be charged for releasing the same.

10. For filing and indexing other instruments, not herein specified, authorized by law to be filed, twenty-five cents.

11. For recording a final receipt from the receiver of any United States land office, fifty cents.

#### ARTICLE 6.—COUNTY TREASURER.

§ 1, c. 53, 1891.

**§ 2080. Salary, how determined.** The county treasurer of each county shall be allowed at the time of his settlement all sums paid by him for printing such advertisements as he is required to have done, at the rates prescribed by law; and all the sums paid by him for blank books and stationery necessarily used in his office, and shall receive for his services such sums as may be allowed by law for the collection and paying over of all moneys collected or received by him for the leasing, sale or interest on school or other state lands, and on all other public moneys by him collected or received as such county treasurer, for each year's services, as follows: Four and one-half cents on each dollar for the first ten thousand dollars; three cents on each dollar on the next twenty thousand dollars; and two cents on each dollar on all sums over thirty thousand dollars and less than sixty thousand dollars; and one cent on each dollar on all sums over sixty thousand dollars, to be paid on the warrant of the county auditor out of the salary fund, and whenever the salary fund shall be exhausted the auditor shall draw his warrant on the general fund; provided, that no compensation shall be allowed the treasurer from any moneys received from his predecessor in office, or his legal representatives, nor on any moneys received from the current school funds of the state arising from the lease or sale of school lands; provided, that no treasurer shall receive more than twelve hundred dollars for his personal services in any one year in counties where the valuation of taxable property is less than two million dollars; nor more than fifteen hundred dollars in counties where the valuation of taxable property exceeds two million dollars, but does not exceed four million dollars; nor more than two thousand dollars in counties where the valuation of taxable property exceeds four million dollars, but does not exceed six million dollars; nor more than two thousand five hundred dollars in counties where the valuation of taxable property exceeds six million dollars, but does not exceed nine million dollars; nor more than three thousand dollars in counties where the valuation of taxable property exceeds nine million dollars, but does not exceed twelve million dollars; nor more than three thousand five hundred dollars, in counties where the valuation of taxable property exceeds twelve million dollars; and all moneys received as fees for certifying to abstracts, in excess of the amount provided for in this article, shall be paid by the county treasurer at the end of each month into the revenue fund of the county; provided, further, that whenever the salary of the county treasurer is limited to a fixed sum by the second proviso of this section, such sum shall be paid in the manner provided above at the end of each month in twelve equal installments, and no treasurer receiving pay for his services under said second proviso, whose salary cannot be certainly and exactly fixed at the beginning of his official year, shall receive more than one-twelfth of his annual salary at the

end of each month, as carefully estimated and recorded by the board of county commissioners at its January meeting each year; and the balance of the year's pay found to be due the treasurer shall be paid to him on the computation by such board of commissioners at its next January meeting.

§ 2081. **Deputies, when appointed. Salaries.** If in the judgment of the board of county commissioners of any county it shall be deemed necessary for the prompt and accurate dispatch of business in the office of the county treasurer, that a deputy or clerk be employed therein, it shall by resolution fix the number of deputies or clerks to be employed, and the length of time they shall be employed, together with the compensation which they shall receive, which compensation shall be paid monthly, in the same manner as the salary of the county treasurer; but the officer in whose office such deputy or clerks are to be employed shall have the sole power of appointing and removing them at pleasure. Any county treasurer who shall receive and appropriate to his own use any part of the salary allowed any clerk or deputy in his office shall be deemed guilty of a misdemeanor. § 2, c. 53, 1891.

#### ARTICLE 7. — SHERIFF.

§ 2082. **Fees to be charged.** The sheriff shall be entitled to charge and receive the following fees: § 9, c. 39, Pol. C.  
§ 12, c. 77, 1881.  
1, c. 56, 1885.  
am'd.

1. Serving *capias* with commitment or bail bond and return, two dollars.
2. For each search on search warrant, one dollar.
3. Arresting under search warrant, each defendant, one dollar.
4. Serving summons, warrant of attachment, order of *replevin*, injunctional order, citation or other mesne process and return thereon, sixty cents; each defendant besides the first, fifty cents.
5. Copy of summons, or order of attachment, twenty-five cents.
6. Copy of injunctional order, twenty-five cents.
7. Serving subpoena for witness, each person, twenty-five cents.
8. Taking and filing bond in claim and delivery, or other undertaking to be furnished to and approved by the sheriff, one dollar.
9. Traveling expenses for each mile actually and necessarily traveled, ten cents.
10. Making copy of any process, bond or paper, other than herein provided, for each ten words, one cent.
11. Levying writ of execution and return thereof, one dollar.
12. Levying writ of possession with the aid of the county, three dollars and fifty cents.
13. Levying writ of possession without the aid of the county, two dollars.
14. Summoning grand jury, including mileage to be paid by the county, eight dollars.
15. Summoning petit jury, including mileage to be paid by the county, sixteen dollars.
16. Summoning special jury, for each person empaneled, twenty-five cents.
17. Serving notice of motion or other notice or order of court, fifty cents.
18. Executing writ of habeas corpus and return, one dollar and twenty-five cents.

19. Serving writ of restitution and return, one dollar and twenty-five cents.
20. Calling inquest to appraise any goods and chattels which he may be required to have appraised, sixty cents, and to each appraiser, to be taxed as costs, one dollar.
21. Advertising sale in newspaper, in addition to the publisher's fees, sixty cents.
22. Advertising in writing for sale of personal property, one dollar.
23. Executing writ or order of partition, two dollars.
24. Making deed for land sold on execution or order of sale, two dollars.
25. Committing prisoner to prison, or discharging therefrom, fifty cents.
26. Opening court and attending thereon per day, to be paid by the county, four dollars; but this per diem shall not be construed to apply to deputies, and shall not be allowed for attendance on justices' courts.
27. Commissions on all money received and disbursed by him on execution, order of sale, order of attachment, decree or on sale of real or personal property, shall be:
  - (a) For each dollar not exceeding four hundred dollars, three cents.
  - (b) For each dollar above four hundred dollars, and not exceeding one thousand dollars, two cents.
  - (c) For each dollar in excess of one thousand dollars, one cent.
28. In all cases in the district court where persons in whose favor the execution or order of sale is issued, shall bid in the property sold on execution or judgment, the sheriff or person making such sale shall receive the following compensation:
  - (a) When the amount for which the property is bid in does not exceed one thousand dollars, the sum of five dollars and no more.
  - (b) When the amount for which the property is bid in exceeds one thousand dollars, the sum of ten dollars and no more.
29. For selling real property under foreclosure of mortgages by advertisement, the same fees as are allowed by law for the sale of real property under a judgment of foreclosure and sale of such property, and no more.
30. For boarding prisoners, not exceeding seventy-five cents per day each, to be determined by the board of county commissioners.
31. For distributing ballot boxes to the various precincts, two dollars per day and mileage.
32. For executing death warrant, such fee as the board of county commissioners shall deem reasonable and just, to be paid by the county.
33. In all cases where personal property shall be taken by the sheriff on execution or under a warrant of attachment, and applied in satisfaction of the debt without sale, he shall be allowed the same percentage on the appraised value thereof as in case of sale.
34. For the expense in taking and keeping possession of and preserving property under attachment, execution or other process such sum as the court or judge may order, not to exceed the actual expense incurred, and no keeper must receive to exceed three dollars per day, nor must he be so employed, unless the property is of such character as to require the personal attention and supervision of a keeper. No

property must be placed in charge of a keeper if it can be safely and securely stored, or when there is no reasonable danger of loss.

§ 2083. **Mileage for summoning jury.** The sheriff shall be entitled to receive five cents a mile for each mile actually and necessarily traveled in summoning a grand and petit jury, to be paid by the county in addition to the compensation now allowed by law; provided, that no additional mileage shall be allowed as sheriff for summoning talesmen over and above that fixed by law.

§ 1, c. 52, 1887.

§ 2084. **Fees for transportation of prisoners and patients.** The necessary expenses and legal fees of sheriffs and other officers incurred in conveying prisoners to the penitentiary or reform school, or patients to the hospital for the insane, shall be audited by the state auditor and paid out of the state treasury. The auditor may allow for such expenses and fees, the following rates:

41, c. 23, 1879.  
1, c. 57, 1885.  
1, c. 58, 1885.  
1, c. 111, 1885.

1. Three dollars per day for the time of the sheriff or other officer necessarily spent in going to and returning from such penitentiary, reform school or hospital by the nearest route.

2. Two dollars and fifty cents per day for each guard necessary for conveying prisoners to the penitentiary or reform school, and one dollar and fifty cents per day for each guard necessary for conveying patients to the hospital for the insane and in either case such sums as may be necessary for railroad or stage fare and actual traveling expenses.

Not more than one guard shall be allowed for one prisoner or patient and one additional guard for every two additional prisoners or patients. When conveyance by team is necessary, a team and driver may be employed at a rate of compensation not exceeding five dollars per day, but not less than forty miles per day shall be taken as a day's travel. All bills shall be in writing and fully itemized and verified by oath, and accompanied by the receipt of the warden of the penitentiary or superintendent of the reform school or of the hospital for the insane for the delivery of such prisoner or patient.

When the commissioners of insanity order the return of a patient, compensation and expenses shall in like manner be allowed and paid out of the state treasury.

§ 2085. **Fees in county and justice's court.** The sheriff, for performing the duties required by law to be performed by him in the county or justice's court, shall receive the same fees as are allowed for similar services in the district court, to be taxed against the proper party.

§ 10, c. 39, Pol.C.

§ 2086. **Fees to be indorsed on process.** When any sheriff or other officer shall serve any summons, subpoena, bench warrant, venire or other process in any action to which this state or any county is a party, such officer shall be required to indorse upon such writ or process, or upon a paper attached thereto, at the time he makes his return of service thereon, a statement of his fees for such service, the number of miles traveled and the amount of his mileage, and in case he shall fail to make his return with such statement and file the same with the clerk of the court from which such process issued before judgment is rendered in the action to which such process relates, he shall receive no fees for such service, and the county commissioners of the county are prohibited from allowing the same.

§ 1, c. 54, 1883.

§ 2087. **Fees for boarding United States prisoners.** The United States shall be liable to pay for the board of prisoners committed to any county jail in this state by authority of United States

courts the same charges as are allowed for the board of prisoners committed under authority of this state; the United States shall also be liable to pay such sum for guard hire and board of guards as is actually expended by the sheriff; provided, that no sheriff shall employ more than one guard when the number of United States prisoners in his custody is less than six, and but one additional guard for each additional six prisoners or fractional number thereof; provided, further, that there shall not be paid to any guard a sum exceeding two dollars per day for his services for the time actually employed.

**§ 2088. Liability of the United States.** Whenever United States prisoners are committed to any county jail in this state, the United States shall be liable to pay to the county in which such jail is situated the sum of one dollar per day during the time such county jail is used for the keeping of United States prisoners. The jail rent provided in this section shall be exclusive of the charge for support of United States prisoners provided for in the preceding section.

ARTICLE 8.—CORONER.

§ 11, c. 39, Pol.C.  
§ 1, c. 75, 1881.

**§ 2089. Fees to be charged.** The coroner shall be entitled to charge and receive the following fees:

1. For a view of each body and taking and returning an inquest, five dollars.
2. For a view of each body and examination without inquest, three dollars.
3. For taking information, fifty cents.
4. For issuing subpœna, warrant or order for a jury, fifty cents.
5. For qualifying an inquest, fifty cents.
6. For administering an oath or affirmation to a witness, ten cents.
7. For each adjournment, fifty cents.
8. For taking deposition, drawing and returning inquisition, for each ten words, one cent.
9. For each mile traveled to and returning from an examination or inquest, ten cents.
10. For physician making post-mortem examination of dead body, ten dollars.
11. For all other services rendered, the same fees as are allowed the sheriff, and mileage.

Such fees shall be paid out of the county treasury when they cannot be obtained from the estate of the deceased; but in all cases of murder or manslaughter, out of the goods, chattels, lands and tenements of the slayer, if he has any; otherwise by the county, with mileage for distance actually traveled to and from the place of securing the dead body.

ARTICLE 9.—REFEREES.

§ 12, c. 39, Pol.C.  
am'd.

**§ 2090. Fees to be charged.** Referees shall be entitled to charge and receive the following fees:

1. For copying any paper or instrument or taking testimony, for every ten words, one cent.
2. Swearing each witness, ten cents.
3. Making report of facts or conclusions of law, or upon exceptions, for every ten words, one cent.

4. And such additional fees as the court shall allow not exceeding in any one case, the sum of ten dollars per day, except by agreement of the parties.

5. Certificate and seal, twenty-five cents.

6. Taking affidavit, twenty-five cents.

7. For all services pertaining to the sale of real estate, the same fees as are allowed by law to the sheriff in like cases.

#### ARTICLE 10. — NOTARIES PUBLIC.

§ 2091. **Fees to be charged.** Notaries public are entitled to charge and receive the following fees: §17, c.39, Pol.C.

1. For each protest, one dollar and fifty cents.
2. For recording the same, fifty cents.
3. For taking affidavit and seal, twenty-five cents.
4. For administering an oath or affirmation, ten cents.
5. For taking a deposition, each ten words, one and one-half cents.
6. For each certificate and seal, twenty-five cents.
7. For taking proof of acknowledgment, twenty-five cents.

#### ARTICLE 11. — JUSTICES OF THE PEACE.

§ 2092. **Fees to be charged.** Justices of the peace shall be entitled to charge and receive the following fees: §18, c.39, Pol.C. am'd.

1. Docketing each cause, twenty-five cents.
2. Taking affidavit, twenty-five cents.
3. Filing petition, bill of particulars or other paper, necessary in a cause, ten cents.
4. Issuing summons, warrant, subpoena, order of arrest, or venire for jury, fifty cents.
5. Issuing execution, order of sale, or writ of attachment and entering return therein, fifty cents.
6. Issuing writ of restitution and entering return therein, one dollar.
7. Administering oath or affirmation to witness, ten cents.
8. Entering judgment in any cause, fifty cents.
9. Taking acknowledgment of deed or other instrument, twenty-five cents.
10. Swearing jury, twenty-five cents.
11. Copy of appeal, copy of pleadings or other papers for any purpose, for each ten words, one cent.
12. Taking depositions, for each ten words, one cent.
13. Certificate, twenty-five cents.
14. Taking information and complaint, fifty cents.
15. Discharge to jailer, twenty-five cents.
16. Dismissal, discontinuance or satisfaction, twenty-five cents.
17. Written notice to party, ten cents.
18. Filing notice and opening judgment for rehearing, fifty cents.
19. Each adjournment, fifty cents.
20. Performing marriage ceremony, three dollars.
21. Each day's attendance upon the trial of a cause after the first day, two dollars.
22. Taking and approving bail bond, twenty-five cents.
23. Entering voluntary appearance of defendant, twenty-five cents.
24. Issuing attachment, fifty cents.

25. Entering motion, or order, ten cents.
26. Order of reference to arbitrators, fifty cents.
27. Entering award of arbitrators, twenty-five cents.
28. Commission on money collected on judgment without execution shall be one per cent on the amount.

ARTICLE 12. — CONSTABLES.

§ 19, c.39, Pol.C.     **§ 2093. Fees allowed.** Constables shall be allowed the same fees as are allowed to sheriffs for like services.

ARTICLE 13. — COUNTY SURVEYORS.

§ 21, c.39, Pol.C.     **§ 2094. Fees allowed.** County surveyors shall be allowed to charge and receive the following fees:

1. For time actually employed, three dollars per day and mileage.
2. For each lot laid out and platted in any city or village, twenty-five cents.
3. For each copy of plat and certificate, fifty cents.
4. Recording each survey, twenty-five cents.
5. For each mile actually and necessarily traveled in going to and returning from work, ten cents.
6. For establishing each corner, twenty-five cents.
7. For ascertaining the location of a city or village lot in an old survey and measuring and marking the same, two dollars.
8. For surveying county roads, three dollars per day.
9. Expenses of necessary assistance shall in addition be paid by the person requiring the work to be done.

ARTICLE 14. — COUNTY COMMISSIONERS.

§ 24, c.39, Pol.C.     **§ 2095. Compensation allowed.** County commissioners shall each be allowed for the time they are necessarily employed in the duties of their office the sum of three dollars per day, and five cents per mile for the distance actually traveled in attending the meetings of the board and when engaged in other official duties, to be paid out of the general fund of the county.

ARTICLE 15. — JURORS.

§ 20, c.39, Pol.C.  
1, c. 59, 1885,  
am'd.     **§ 2096. Fees allowed.** Jurors are entitled to receive:

1. For each day's attendance in district court as grand, petit or special juror, to be paid by the county, two dollars.
2. Traveling expenses for each mile actually and necessarily traveled each way, to be paid by the county, five cents.
3. For each day's attendance as juror in justice's court, one dollar.
4. For each day's attendance as juror at coroner's inquest, to be paid by the county, one dollar.

ARTICLE 16. — WITNESSES.

§ 25, c.39, Pol.C.     **§ 2097. Per diem and mileage.** Witnesses are entitled to receive for each day's attendance before the district court, or before any other court, board or tribunal, in all civil and criminal cases, one dollar; and for each mile actually traveled one way, ten



cents; provided, that in all criminal cases witness fees shall be paid out of the county treasury of the proper county.

§ 2098. Duplicate fees not permissible. A witness who is subpoenaed in two or more cases by the same party shall be entitled only to one compensation from such party for the same day's attendance or travel. § 1. c. 194. 1890.

ARTICLE 17. — PRINTERS.

§ 2099. Legal rates. In all cases where publication of legal notices of any kind is required or allowed by law, the person or officer desiring such publication shall be required to pay seventy-five cents per square of twelve lines of nonpareil type or its equivalent for the first insertion and fifty cents per square for each subsequent insertion. And in all cases of publication of notices in connection with sales upon execution the plaintiff, except in divorce cases, may designate the newspaper published within the county in which such notice shall be published; in all legal advertisements fractional parts of twelve lines shall be paid for at the rate of ten cents per line of nonpareil type or its equivalent. § 1. c. 51. 1887.

ARTICLE 18. — FEES IN MATTERS OF ESTRAYS.

§ 2100. Fees allowed. The following fees are allowed in cases of estrays: § 28, c. 39, Pol.C.

1. To justices of the peace, for issuing any warrant of appraisal, fifty cents.
2. For filing and entering in his docket the sworn report of appraisers, fifty cents.
3. Taking and entering the affidavit of the taking up of any estray, fifty cents.
4. For posting notices of estray and certifying to a copy of the sworn reports of the appraisers to the register of deeds, fifty cents.
5. Posting notices and selling an estray, two dollars.
6. Advertising an estray, if published in a newspaper, three dollars.
7. To each appraiser, twenty-five cents.
8. To the register of deeds for entering certified copy of sworn report of appraisers, twenty-five cents.
9. For each inspection of the estray register, ten cents.

ARTICLE 19. — MISCELLANEOUS PROVISIONS.

§ 2101. Fees for interpreters. Interpreters or translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed two dollars per day. § 29, c. 39, Pol.C.

§ 2102. Fees for acknowledgments. Officers authorized by law to take and certify acknowledgments of deeds and other instruments are entitled to charge and receive twenty-five cents each therefor, and for administering oaths and certifying the same, ten cents. § 30, c. 39, Pol.C.

§ 2103. Taxing costs. In all actions, motions and proceedings in the supreme, district, county or justice's courts, the costs of the parties shall be taxed and entered on record separately. § 31, c. 39, Pol.C.

§ 32, c. 39, Pol.C. **§ 2104. Fees paid in advance or security given.** The clerk of the supreme court and of each district court, the county judge, sheriff, justice of the peace, constable or register of deeds may in all cases require the party for whom any service is to be rendered to pay the fees in advance of the rendition of such service, or to give security for the same, to be approved by the officer.

§ 33, c. 39, Pol.C. **§ 2105. Fee bill to be posted. Penalty.** All officers whose fees are by this chapter determined are required to make a schedule of their respective fees and keep the same in their respective offices in a conspicuous place; and if any such officer shall neglect to do so, he shall for such neglect forfeit and pay the sum of five dollars, to be recovered by a civil action before any justice of the peace for the use of the county in which the offense was committed.

§ 34, c. 39, Pol.C. am'd. **§ 2106. Bailiffs, compensation of.** It shall be the duty of the district court at each term thereof to appoint a competent number of bailiffs to wait on the jury and court during the term, who shall be allowed for their services two dollars per day, to be paid by the county.

§ 35, c. 39, Pol.C. **§ 2107. Per diem oath. Penalty.** Each officer, whose salary is in the nature of a per diem, shall, before drawing any money on account of such salary, subscribe an oath or affirmation in the following form:

I, A. B., do solemnly swear (or affirm) that I have been . . . . . days necessarily and diligently engaged in the duties of my office as (insert title of office.)  
 . . . . . (Officer's name.)

Any disbursing officer of this state, who shall pay any portion of the salary of any officer aforesaid before such oath or affirmation is taken and subscribed, shall forfeit to this state the sum of fifty dollars, which forfeiture may be sued for by any taxpayer.

## CHAPTER 28.

### CITIES.

#### ARTICLE 1.—ORGANIZATION OF CITIES.

§ 1, art. 1, c. 73, 1887. **§ 2108. How city may adopt this chapter.** Any city in this state may become incorporated under this chapter in the manner following: Whenever one-eighth of the legal voters of such city, voting at the last preceding municipal election, shall petition the mayor and council thereof to submit the question as to whether such city shall become incorporated under this chapter to a vote of the electors in such city, it shall be the duty of such mayor and council to submit such question accordingly, and to appoint a time and place or places at which such vote may be taken, and to designate the persons who shall act as judges at such election; but such question shall not be submitted oftener than once in two years.

§ 2, art. 1, c. 73, 1887. **§ 2109. Notice of election.** The mayor of such city shall give at least twenty days' notice of such election by publishing a notice thereof in one or more newspapers within such city; but if no newspaper is published therein then by posting at least five copies of such notice in each ward or voting precinct.

§ 2110. **Form of ballots. Result.** The ballots to be used at such election shall be in the following form: "For city organization under general law," or "against city organization under general law." The judges of such election shall make returns thereof to the city council, whose duty it shall be to canvass such returns and cause the result of such canvass to be entered upon the records of such city. If a majority of the votes cast at such election shall be for city organization under general law, such city shall thenceforth be deemed to be organized under this chapter; and the city officers then in office shall thereupon exercise the powers conferred upon like officers in this chapter, until their successors shall be elected and qualified.

§ 3, art. 1, c. 73, 1887.

§ 2111. **Courts to take judicial notice of.** All courts in this state shall take judicial notice of the existence of cities organized under this chapter, and of the change of the organization of any city from its original organization to its organization under this chapter; and from the time of organization the provisions of this chapter shall be applicable to such city, and all laws in conflict herewith shall no longer be applicable. But all laws or parts of laws not inconsistent with the provisions of this chapter shall continue in force and be applicable to any such city the same as if such change had not taken place.

§ 4, art. 1, c. 73, 1887.

§ 2112. **Corporate name. Powers.** Cities organized under this chapter shall be bodies politic and corporate under the name and style of "City of (name)," and under such name may sue and be sued, contract and be contracted with, acquire and hold real and personal property for corporate purposes, have a common seal and change the same at pleasure, and exercise all the powers hereinafter conferred.

§ 5, art. 1, c. 73, 1887.

§ 2113. **Rights, etc., of old corporation vest in new.** All rights and property of every kind and description which were vested in any municipal corporation under its former organization shall be deemed and held to be vested in the same municipal corporation upon its becoming incorporated under the provisions of this chapter, but no rights or liabilities, either in favor of or against such corporation, existing at the time of so becoming incorporated under this chapter, and no action or prosecution of any kind, shall be affected by such change, but the same shall stand and progress as if no change had been made; provided, that when a different remedy is given by this chapter, which may properly be made applicable to any right existing at the time of such city so becoming incorporated under this chapter, the same shall be deemed cumulative to the remedies before provided and used accordingly.

§ 6, art. 1, c. 73, 1887.

§ 2114. **Record of result of election.** The corporate authorities of any city which may become organized under this chapter shall, within three months after organization hereunder, cause to be filed in the office of the register of deeds in the county in which such city is situated a certified copy of the entry made upon the records of the city, of the canvass of the votes showing the result of such election whereby such city became so organized, and such register of deeds shall record the same, and such corporate authorities shall also cause a like certificate to be filed in the office of the secretary of state, who shall file the same and keep a registry of cities organized under this chapter.

§ 7, art. 1, c. 73, 1887.

§ 8, art. 1, c. 73, 1887. **§ 2115. Prior ordinances in force.** All ordinances and resolutions in force in any city at the date of its organization under this chapter shall continue in full force and effect until repealed or amended, notwithstanding such change of organization, and such change of organization shall not change the legal identity of such city as a corporation.

#### ARTICLE 2.—THE MAYOR.

§ 1, art. 2, c. 73, 1887. **§ 2116. Mayor, qualifications of.** The chief executive officer of the city is the mayor, who shall be a qualified elector within the city, and who shall hold his office for two years and until his successor is elected and qualified.

§ 2, art. 2, c. 73, 1887. **§ 2117. Vacancy, one year or over, how filled.** Whenever a vacancy occurs in the office of mayor and the unexpired term is one year or more from the date such vacancy occurs, it shall be filled by an election.

§ 3, art. 2, c. 73, 1887. **§ 2118. Vacancy, less than one year, how filled.** If the vacancy is less than one year the city council shall elect one of its number to act as mayor, who shall possess all the rights and powers of the mayor until the next annual election and until a mayor is elected and qualified.

§ 5, art. 2, c. 73, 1887. **§ 2119. Vacancy by removal from city.** If the mayor at any time during his term of office removes from the city, his office shall thereby become vacant.

§ 6, art. 2, c. 73, 1887. **§ 2120. Mayor presides. Casting vote.** The mayor shall preside at all meetings of the city council, but shall not vote except in case of a tie, when he shall give the casting vote.

§ 7, art. 2, c. 73, 1887. **§ 2121. May remove officer, when.** The mayor shall have power to remove any officer appointed by him whenever he shall be of the opinion that the interests of the city demand such removal; but he shall report the reasons for such removal to the council at its next regular meeting.

§ 8, art. 2, c. 73, 1887. **§ 2122. Has power to keep peace.** He may exercise within the city limits the powers conferred upon sheriffs to suppress disorder and keep the peace.

§ 9, art. 2, c. 73, 1887. **§ 2123. May release prisoners.** He may release any person imprisoned for violation of any city ordinance, and shall report such release, with the cause thereof, to the city council at its first session thereafter.

§ 10, art. 2, c. 73, 1887. **§ 2124. General duties.** He shall perform all such duties as are or may be prescribed by law or by the city ordinances, and shall take care that the laws and ordinances are faithfully executed.

§ 11, art. 2, c. 73, 1887. **§ 2125. Has power to examine records.** He shall have power at all times to examine and inspect the books, records and papers of any agent, employee or officer of the city.

§ 12, art. 2, c. 73, 1887. **§ 2126. Annual message to council.** The mayor shall annually and from time to time give the council information relative to the affairs of the city, and shall recommend for its consideration such measures as he may deem expedient.

§ 13, art. 2, c. 73, 1887. **§ 2127. May call out militia to suppress riots.** He shall have power when necessary to call on each male inhabitant of the city over the age of eighteen years to aid in enforcing the laws and ordinances, and to call out the militia to aid in suppressing riots and other disorderly conduct, or to carry into effect any law or ordinance,

subject to the authority of the governor as commander in chief of the militia.

§ 2128. **Misconduct of mayor or other officer. Penalty.** In case the mayor or any other municipal officer shall at any time be guilty of a palpable omission of duty, or shall willfully and corruptly be guilty of oppression, malconduct or misfeasance in the discharge of the duties of his office, he shall be liable to be prosecuted criminally in any court of competent jurisdiction, and on conviction shall be fined in a sum not exceeding one thousand dollars, and the court in which such conviction shall be had shall enter an order removing such officer from office. § 14, art. 2, c. 73, 1887.

§ 2129. **Revising ordinances after change of organization.** He may appoint, by and with the advice and consent of the city council, immediately after such change of organization, one or more competent persons to prepare and submit to the city council for its adoption or rejection an ordinance in revision of the ordinances of such city and for the government of such city, the compensation of such reviser or revisers to be determined and fixed by the city council and paid out of the city treasury. § 15, art. 2, c. 73, 1887.

§ 2130. **May sign or veto ordinances.** He shall have power to sign or veto any ordinance or resolution passed by the council. § 16, art. 2, c. 73, 1887.

§ 2131. **Mayor appoints policemen and chief.** He shall have power to appoint any number of policemen which he and the city council may deem necessary to preserve the peace of the city, and shall appoint one of the number as chief of police, which appointment of chief shall be subject to the approval of the council. § 17, art. 2, c. 73, 1887.

ARTICLE 3.—CITY COUNCIL.

§ 2132. **Council, of whom composed.** The city council shall consist of the mayor and aldermen. § 1, art. 3, c. 73, 1887.

§ 2133. **Number of aldermen.** The number of aldermen shall be as follows: In cities not exceeding two thousand inhabitants, six aldermen; exceeding two thousand but not exceeding four thousand, eight aldermen; exceeding four thousand but not exceeding ten thousand, twelve aldermen; exceeding ten thousand but not exceeding fifteen thousand, fourteen aldermen; and two additional aldermen for each ten thousand inhabitants over fifteen thousand; provided, however, that in cities of over one hundred thousand inhabitants there shall be elected thirty-six aldermen and no more. § 2, art. 3, c. 73, 1887.

§ 2134. **Term of office.** Aldermen shall hold their office for the term of two years and until their successors are elected and qualified. § 3, art. 3, c. 73, 1887.

§ 2135. **Vacancy how filled.** If a vacancy occurs in the office of alderman, by death, resignation, removal or otherwise, such vacancy shall be filled by election. § 4, art. 3, c. 73, 1887.

§ 2136. **Qualifications of alderman.** No person shall be eligible to the office of alderman unless he is a qualified elector of and resides within the ward for which he is elected nor shall he be eligible if he is in arrears in the payment of any tax or other liability due to the city, nor shall he be directly or indirectly interested in any contract whatever to which the city is a party; nor shall he be eligible if he shall have been convicted of malfeasance, bribery or other corrupt practices or crimes; nor shall he be eligible to any office, the salary of which is payable out of the city treasury, if at the time § 5, art. 3, c. 73, 1887.

of his appointment he shall be a member of the city council; nor shall any member of the city council at the same time hold any other office under the city government; nor shall he be either directly or indirectly, individually or as a member of a firm engaged in any business transaction, other than official, with such city through its mayor or any of its authorized boards, agents or attorneys, whereby any money is to be paid directly or indirectly out of the treasury to such member or firm.

§ 6, art. 3, c. 73, 1887. § **2137. Council judge of its members.** The city council shall be judge of the election and qualifications of its own members.

§ 7, art. 3, c. 73, 1887. § **2138. Rules. Expulsions. Bribery.** It shall determine its rules of procedure, punish its members for disorderly conduct, and with the concurrence of two-thirds of the aldermen elect may expel a member, but not a second time for the same offense; provided, that any alderman who shall have been convicted of bribery shall thereby be deemed to have vacated his office.

§ 8, art. 3, c. 73, 1887. § **2139. Quorum. Compelling attendance.** A majority of the aldermen elected shall constitute a quorum to do business, but a smaller number may adjourn from time to time, and may compel the attendance of absentees under such penalties as may be prescribed by ordinance.

§ 9, art. 3, c. 73, 1887. § **2140. Meetings of city council, when held.** The city council shall hold its regular meetings on the first Monday of each and every month, and may prescribe by ordinance the manner in which special meetings may be called. The first meeting for organization shall be held on the third Tuesday in April of each year.

§ 10, art. 3, c. 73, 1887. § **2141. President and vice president.** It shall at the first regular meeting after the annual election in each year proceed to elect from its own members a president and vice president, who shall hold their respective offices for the municipal year. The president of the council shall in the absence or temporary disability of the mayor, be presiding officer of the council and shall, during the absence of the mayor from the city or his temporary disability, be acting mayor and shall possess all the powers of the mayor. In the absence or disability of the mayor and president of the council the vice president shall perform the duties of the mayor and president of the council.

§ 11, art. 3, c. 73, 1887. § **2142. Open doors. Journal.** It shall sit with open doors and shall keep a journal of its proceedings.

§ 12, art. 3, c. 73, 1887. § **2143. Yeas and nays. Record vote required.** The yeas and nays shall be taken upon the passage of all ordinances and on all propositions to create any liability against the city or for the expenditure or appropriation of money, and in all other cases at the request of any member, which shall be entered on the journal of its proceedings, and the concurrence of a majority of all the members elected shall be necessary to the passage of any such ordinance or proposition. It shall require a two-thirds vote of all the aldermen elected to sell any city or school property.

§ 13, art. 3, c. 73, 1887. § **2144. Rescinding vote. Special meetings, etc.** No vote of the city council shall be reconsidered or rescinded at a special meeting unless at such special meeting there is present as large a number of aldermen as were present when such vote was taken.

§ 14, art. 3, c. 73, 1887. § **2145. When report of committee laid over.** Any report of a committee of the council shall be deferred for final action thereon to the next regular meeting of the council after the report is made, upon the request of any two aldermen present.

§ 2146. **Territorial jurisdiction.** The city council shall have jurisdiction in and over all places within one-half mile of the city limits, for the purpose of enforcing health and quarantine ordinances and regulations thereof. § 15, art. 3, c. 73,  
1887.

§ 2147. **Ordinances, how passed, etc.** All ordinances shall be read twice, and there shall be at least one week intervening between the first and second reading, and after thus being passed by the city council, shall before they take effect, be deposited in the office of the city auditor for the approval of the mayor; and if the mayor approves thereof, he shall sign the same, and such as he shall not approve he shall return to the council with his objections thereto in writing at the next regular meeting of the city council occurring not less than five days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance; and in case the veto only extends to a part of such ordinance the residue thereof shall take effect and be in force. But in case the mayor shall fail to return any ordinance with his objections thereto by the time aforesaid, he shall be deemed to have approved such ordinance and the same shall take effect accordingly; provided, that upon the return of any ordinance by the mayor, the vote by which the same was passed may be reconsidered by the council; and if after such reconsideration two-thirds of all the members elected to the city council shall agree by yeas and nays to pass the same, it shall go into effect, notwithstanding the mayor may refuse to approve thereof. The vote to pass the same over the mayor's veto shall be taken by yeas and nays and entered in the journal. All ordinances passed by the council and approved by the mayor, or passed over the mayor's veto, shall be published at least once in the official newspaper of the city, and shall become operative immediately upon such publication. The city auditor shall record in a book kept for that purpose, together with the affidavit of the publisher, all ordinances so passed and published; and such book or a certified copy of the ordinance as so recorded shall be received as evidence in all courts and places without further proof; or if printed in book or pamphlet form by the authority of the city council they shall be so received. All ordinances shall be styled, "Be it ordained by the city council." § 16, art. 3, c. 73,  
1887.

ARTICLE 4.—POWERS OF THE CITY COUNCIL.

§ 2148. **General powers of city council.** The city council shall have power: § 1, art. 4, c. 73,  
1887.

1. To control the finances and property of the corporation.
2. To appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation.
3. To levy and collect taxes for general and special purposes on real and personal property.
4. To fix the amount, terms and manner of issuing and revoking licenses.
5. To borrow money on the credit of the corporation for corporate purposes and to issue bonds therefor, in such amounts and form, and on such conditions as it shall prescribe, but shall not become indebted in any manner, or for any purpose to an amount, including existing indebtedness, to exceed five per cent of the taxable property therein as determined by the last preceding city assessment; provided, that

§§ 1,2,c.100,1890.  
am'd.

any incorporated city may, by a two-thirds vote, increase such indebtedness three per cent on such assessed value beyond said five per cent limit; and such city shall provide for the collection of a direct annual tax sufficient to pay the interest on such debt when it falls due, and also to pay and discharge the principal thereof within twenty years after contracting the same; provided, that no bonds shall be issued under the provisions of this article, either for general or special purposes, except as hereinafter otherwise provided, unless at an election after twenty days' notice in a newspaper published in the city, stating the purpose for which such bonds are to be issued and the amount thereof, the legal voters of such city by a majority vote shall determine in favor of issuing such bonds.

6. To issue bonds in place of or to supply means to meet maturing bonds or for the consolidation or funding of the same, or consolidation or funding of any floating indebtedness created by such city prior to the second day of November, 1889, and such bonds may be issued upon resolution of the city council at a general meeting upon a three-fourths vote of all the aldermen elect.

7. To lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, wharves, parks and public grounds and vacate the same.

8. To plant trees on the same.

9. To regulate the use of the same.

10. To prevent and remove obstructions and encroachments upon the same.

11. To provide for the lighting of the same.

12. To provide for the cleansing of the same.

13. To regulate the openings therein for the laying of gas or water mains and pipes, and the building and repairing of sewers, tunnels and drains, and erecting gas or electric lights; provided, however, that any company heretofore organized under the general laws of this state, or any association of persons organized or which may be hereafter organized for the purpose of manufacturing illuminating gas or electricity to supply cities or the inhabitants thereof with the same, shall have the right by consent of the city council, subject to existing rights, to erect gas or electric light works, and lay down pipes or string wires on poles in the streets or alleys of any city in this state, subject to such regulations as such city may by ordinance prescribe.

14. To regulate the use of sidewalks and all structures thereunder; and to require the owner or occupant of any premises to keep the sidewalks in front of or along the same free from snow and other obstructions.

15. To regulate and prevent the throwing or depositing of ashes, offal, dirt, garbage or any offensive matter in and to prevent injury to any street, avenue, alley or public ground.

16. To provide for and regulate crosswalks, curbs and gutters.

17. To regulate and prevent the use of streets, sidewalks and public grounds for signs, signposts, awnings, telegraph or telephone poles, horse troughs, racks, posting handbills and advertisements.

18. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or handbills in the streets or public grounds or upon the sidewalks.

19. To regulate and prevent the flying of flags, banners or signs across the streets or from houses.



20. To regulate traffic and sales upon the streets, sidewalks and public places.

21. To regulate the speed of horses and other animals, vehicles, cars and locomotives within the limits of the corporation.

22. To regulate the numbering of houses and lots.

23. To name and change the name of any street, avenue, alley or other public place.

24. To permit, regulate or prohibit the locating, constructing or laying of a track of any horse railroad in any street, alley or public place; but such permission shall not be for a longer time than twenty years.

25. To provide for and change the location, grade and crossing of any railroad.

26. To require railroad companies to fence their respective railroads or any portion of the same, and construct cattle guards, crossings of streets and public roads, and keep the same in repair within the limits of the corporation.

27. To require railroad companies to keep flagmen at railroad crossings of streets, and provide protection against injury to persons and property; to compel railroads to raise or lower their tracks to conform to any grade which may at any time be established by such city, and where such tracks run lengthwise of such street, alley or highway to keep their tracks on a level with the street surface, and so that such tracks may be crossed at any place on such street, alley or highway; to compel and require railroad companies to make and keep open and to keep in repair ditches, drains, sewers and culverts along and under their tracks, so that filthy and stagnant pools of water cannot stand on their grounds or right of way, and so that the natural or artificial drainage of adjacent property shall not be impeded.

28. To construct and keep in repair bridges, viaducts and tunnels, and to regulate the use thereof.

29. To construct and keep in repair culverts, drains, sewers, catch basins, manholes and cesspools, and to regulate the use thereof.

30. To license, tax, regulate, suppress and prohibit hawkers, peddlers, pawnbrokers, keepers of ordinaries, theatricals and other exhibitions, shows and amusements, ticket scalpers and employment agencies, and to revoke such license at pleasure.

31. To license, tax and regulate hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, watermen and all others pursuing like occupations, and to prescribe their compensation.

32. To license, regulate, tax and restrain runners for stages, cars, public houses or other things or persons.

33. To license, regulate, tax or prohibit and suppress billiard, bagatelle, pigeonhole or any other tables or implements kept or used for a similar purpose in any place of public resort, pin-alleys and ball-alleys.

34. To suppress bawdy or disorderly houses, houses of ill fame or assignation within the limits of the city and within one mile of the outer boundaries of the city; and also to suppress gaming and gambling houses, lotteries and all fraudulent devices and practices for the purpose of gambling or obtaining money or property; and to prohibit the sale or exhibition of obscene or immoral publications, prints, pictures or illustrations.

35. To forbid and punish the selling or giving away of any intoxicating, malt, vinous, mixed or fermented liquor to any minor, servant, or insane, idiotic or distracted person, habitual drunkard or person intoxicated.

36. To establish markets and market houses and provide for the regulation and use thereof.

37. To provide for the place and manner of sale of meats, poultry, fish, butter, cheese, lard, vegetables and all other provisions, and regulate the selling of the same.

38. To regulate the sale of bread in the city and prescribe the weight and quality of the bread in the loaf.

39. To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meal and other provisions.

40. To regulate the inspection, weighing, and measuring of lumber, firewood, coal, hay and any article of merchandise.

41. To provide for the inspection and sealing of weights and measures.

42. To enforce the keeping and use of proper weights and measures by vendors.

43. To regulate the construction, repairs and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters.

44. To regulate places of amusement.

45. To prevent intoxication, fighting, quarreling, dog fights, cock fights, and all disorderly conduct.

46. To regulate partition fences and party walls.

47. To prescribe the thickness, strength, and manner of constructing stone, brick and other buildings, and construction of fire escapes therein.

48. To prescribe the limits within which wooden buildings shall not be erected or placed or repaired without permission, and to direct that all and any buildings within said limits, which shall be known as the fire limits, when the same shall have been damaged by fire, decay or otherwise to the extent of fifty per cent of the value, shall be torn down or removed, and to prescribe the manner of ascertaining such damage.

49. To prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building and manufactory, and to cause the same to be removed or placed in a safe condition when considered dangerous; to regulate and prevent the carrying on of manufactories dangerous in causing and promoting fires; to prevent the deposit of ashes in unsafe places; and to cause all such buildings and inclosures as may be in a dangerous state to be put in a safe condition.

50. To erect engine houses and provide fire engines, hose carts, hooks and ladders and other implements for the prevention and extinguishment of fires, and provide for the use and management of the same by voluntary fire companies or otherwise.

51. To regulate and prevent storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum or any of the products thereof, and other combustible or explosive material, and the use of lights in stables, shops and other places, and the building of bonfires; also to regulate and restrain the use of fireworks, firecrackers, torpedoes, Roman candles, skyrockets and other pyrotechnic displays.

52. To provide for the inspection of steam boilers.

53. To establish and erect a city jail, house of correction and workhouse for the confinement and reformation of disorderly persons, vagrants, tramps and idle persons and persons convicted of violating any city ordinance, and make rules and regulations for the government of the same, and appoint necessary jailers and keepers.

54. To use the county jail for the confinement or punishment of offenders, subject to such conditions as are imposed by law and with the consent of the county board of commissioners; and to regulate the police of the city and pass and enforce all necessary police ordinances.

55. To prevent and suppress riots, routs, affrays, noises, disturbances and disorderly assemblies in any public or private place.

56. To prohibit and punish cruelty to animals.

57. To restrain and punish vagrants, mendicants and prostitutes.

58. To declare what shall be a nuisance and to abate the same, and impose fines upon persons who may create, continue or suffer nuisances to exist.

59. To erect and establish hospitals and medical dispensaries, and control and regulate the same.

60. To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

61. To establish and regulate cemeteries within or without the corporation, and acquire lands therefor by purchase or otherwise, and cause cemeteries to be removed, and prohibit their establishment within one mile of the corporation.

62. To regulate, restrain and prohibit the running at large of horses, cattle, swine, sheep, goats, geese and dogs, and to impose a tax or license on dogs.

63. To direct the location and regulate the management and construction of packing houses, renderies, bone factories, slaughter houses, soap factories, foundries, breweries, distilleries, livery stables and blacksmith shops within or within one mile of the limits of the corporation.

64. To prohibit any offensive or unwholesome business or establishment within or within one mile of the limits of the corporation.

65. To compel the owner of any grocery, cellar, stable, pigsty, privy, sewer or other unwholesome or nauseous house or place, to cleanse, abate or remove the same, and to regulate the location thereof.

66. To provide for the taking of the city census; but no city census shall be taken oftener than once in three years.

67. To provide for the erection and care of all public buildings necessary for the use of the city.

68. To extend, by condemnation or otherwise, any street, alley, or highway over or across or to construct any sewer under or through any railroad track, right of way or land of any railroad company, within the corporate limits, but where no compensation is made to such railroad company, the city shall restore such railroad track, right of way or land to its former state or in a sufficient manner not to impair its usefulness.

69. The city council shall have no power to grant the use of or right to lay down any railroad tracks in any street of the city to any steam, electric or horse railway company, except upon a petition of the owners of the land representing more than one-half of the frontage

of the street, or so much thereof as is sought to be used for railroad purposes.

70. To tax, license and regulate auctioneers, distillers, brewers, lumber yards, public scales, money changers and brokers.

71. To prevent and regulate the rolling of hoops, playing of ball, flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

72. To regulate and prohibit the keeping of any lumber yard, and the placing or piling or selling of any lumber, timber, wood or other combustible material within the fire limits of the city.

73. To provide by ordinance that all the paper, printing, stationery, blanks, fuel, and all the supplies needed for the use of the city, shall be furnished by contract, let to the lowest responsible bidder.

74. To tax, license and regulate secondhand and junk stores and to forbid their purchasing or receiving from minors without the written consent of their parents or guardians, any article whatever, and to prescribe punishment for any violation hereof.

75. To purchase, erect, lease, rent, manage and maintain any system or part of system of waterworks, hydrants, and supply of water, telegraphing fire signals, or fire apparatus that may be of use in the prevention and extinguishment of fires, and to pass all ordinances, penal or otherwise, that shall be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected.

76. To redistrict the city into wards and prescribe the boundaries thereof whenever a census of the city shall show the population to be large enough to require two aldermen more than are in the council at the time of the taking of such census.

77. To pass all ordinances, rules and make all regulations proper or necessary to carry into effect the powers granted to cities, with such fines or penalties as the city council shall deem proper; provided, no fine or penalty shall exceed one hundred dollars, and no imprisonment shall exceed three months, for one offense.

§ 2, art. 4, c. 73.  
1887.

**§ 2149. Actions for violating ordinances.** All actions brought to recover any fine or to enforce any penalty under any ordinance of any city shall be brought in the corporate name of the city as plaintiff; and no prosecution, recovery or acquittal for the violation of any such ordinance shall constitute a defense to any other prosecution of the same person for any other violation of any such ordinance, although the different causes of action existed at the same time and if united would not have exceeded the jurisdiction of the court or justice of the peace.

§ 3, art. 4, c. 73.  
1887.  
am'd.

**§ 2150. Fines and licenses paid to city treasurer.** All fines and forfeitures for the violation of ordinances, when collected, and all moneys collected for licenses or otherwise, shall be paid into the city treasury at such times and in such manner as may be prescribed by ordinance.

§ 4, art. 4, c. 73.  
1887.

**§ 2151. Summons. Affidavit. Punishment.** In all actions for the violation of any ordinance the first process shall be a summons; provided, that a warrant for the arrest of the offender may issue in the first instance upon the sworn complaint of any person that any such ordinance has been violated and that the person making the complaint has reasonable grounds to believe the person charged is guilty thereof; and any person arrested upon such warrant

shall without unnecessary delay be taken before the proper officer to be tried for the alleged offense. Any person upon whom any fine or penalty shall be imposed may upon the order of the court before whom the conviction is had be committed to the county jail, city prison, workhouse, house of correction or other place provided by the city for the incarceration of offenders, until such fine, penalty and costs shall be fully paid; provided, that no such imprisonment shall exceed three months for any one offense. The city council shall have power to provide by ordinance that each person so committed shall be required to work for the city at such labor as his strength will permit, not exceeding ten hours each working day; and for such work the person so employed shall be allowed, exclusive of his board, one dollar and twenty-five cents for each day's work on account of such fine and costs.

§ 2152. **Jurisdiction of police magistrate.** The police magistrate shall have exclusive jurisdiction in all cases arising under the provisions of this chapter or any ordinance passed in pursuance thereof. § 5, art. 4, c. 73, 1887.

§ 2153. **Who may serve process.** Any constable or sheriff of the county may serve any process or make any arrests authorized to be made by any city officer. § 6, art. 4, c. 73, 1887.

ARTICLE 5. — POWERS AND DUTIES OF OFFICERS.

§ 2154. **Elective officers.** There shall be elected in each city organized under this chapter the following officers: A mayor, two aldermen from each ward, a city treasurer, a police magistrate and a city justice of the peace. § 1, art. 5, c. 73, 1887. § 3, c. 33, 1889.

§ 2155. **Term of office.** The elective officers of a city shall hold their respective offices for two years and until their successors are elected and qualified. § 2, art. 5, c. 73, 1887.

§ 2156. **Appointive officers.** There shall be appointed by the mayor with the approval of the city council a city auditor, a city assessor, a city attorney and a city engineer, and such other officers as may by the city council be deemed necessary or expedient. § 3, art. 5, c. 73, 1887.

§ 2157. **Additional assessors.** The mayor of any city incorporated under the provisions of this chapter and containing a population of five thousand inhabitants may appoint one or two additional city assessors; provided, that the city council shall by resolution declare their appointment necessary. § 1, c. 28, 1889.

§ 2158. **Term of office.** The appointive officers of a city shall hold their respective offices for two years and until their successors are appointed and qualified. § 4, art. 5, c. 73, 1887.

§ 2159. **Oath. Bond.** All officers of any city, whether elected or appointed, shall before entering upon the duties of their respective offices take and subscribe the following oath or affirmation: § 5, art. 5, c. 73, 1887, am'd.

I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States and the constitution of the state of North Dakota, and that I will faithfully discharge the duties of the office of....., according to the best of my ability.

Such oath or affirmation so subscribed shall be filed in the office of the city auditor; and all such officers, except the mayor and aldermen, shall before entering upon the duties of their respective offices execute a bond with sureties to be approved by the city council, payable

to the city, in such penal sum as may by resolution or ordinance be directed, conditioned for the faithful performance of the duties of the office, and the payment of all moneys received by such officer according to law and the ordinances of said city; provided, that in no case shall the treasurer's bond be fixed at a less sum than the amount of the estimated tax and special assessments for the current year; which bonds shall be filed with the city auditor, except the bond of the city auditor, which shall be filed with the city treasurer.

§ 6, art. 5, c. 73,  
1887.

**§ 2160. Certificate of Appointment. Delivery of books to successor.** All officers elected or appointed under this chapter, except the city auditor, aldermen and mayor, shall be commissioned by warrant under the corporate seal, signed by the auditor and mayor or president of the city council; the mayor shall issue a certificate of appointment, under the seal of the corporation, to the auditor thereof; and any person having been an officer of the city shall within five days after notification and request deliver to his successor in office all property, books and effects of every description in his possession belonging to the city or appertaining to his office; and upon his refusal to do so shall be liable for all the damages caused thereby and to such penalty as may by ordinance be prescribed.

§ 7, art. 5, c. 73,  
1887.

**§ 2161. Qualification of officers.** No person shall be eligible to any office who is not a qualified elector of the city and who shall not have resided therein at least nine months next preceding his election or appointment; nor shall any person be eligible to any office who is a defaulter to the corporation.

§ 8, art. 5, c. 73,  
1887.

**§ 2162. Officer not to be interested in contracts.** No officer shall be directly or indirectly interested in any contract, work or business of the city, or the sale of any article, the expense, price or consideration of which is paid from the treasury or by any assessment levied by any act or ordinance; nor in the purchase of any real estate or other property belonging to the corporation or which shall be sold for taxes or assessments or by virtue of any process at the suit of the corporation, mayor or other person.

§ 9, art. 5, c. 73,  
1887.

**§ 2163. Not to hold other office.** No mayor, alderman, city auditor or treasurer shall hold any other office under the city government during his term of office.

§ 10, art. 5, c. 73,  
1887.

**§ 2164. Compensation of mayor.** The mayor shall receive such compensation as the city council may by ordinance direct; but his compensation shall not be changed during his term of office.

§ 11, art. 5, c. 73,  
1887.

**§ 2165. Compensation of aldermen.** The aldermen may receive such compensation for their services as shall be fixed by ordinance; provided, that such compensation shall not exceed two dollars to each alderman for each meeting of the city council actually attended by him, and no other compensation than for attendance upon such meetings shall be allowed to any alderman for any services whatsoever; such compensation shall not be changed after it has been once established so as to take effect, as to any alderman voting for such change, during his term of office.

§ 12, art. 5, c. 73,  
1887.  
§ 1, c. 35, 1893,  
am'd.

**§ 2166. Police magistrate. Compensation of other officers unchanged during term.** All other officers may receive a salary, fees or other compensation to be fixed by ordinance, and after the same has been once fixed such fees or compensation shall not be diminished to take effect during the term for which any such officer was elected or appointed; provided, that in any city incorporated under this chapter and in which the police magistrate thereof is

allowed and paid a salary, such police magistrate shall not be entitled to receive fees of any kind or in any amount whatever from such city, and such police magistrate shall be entitled to and it shall be his duty to collect in all criminal actions and in all actions instituted under any ordinance of the city, the same fees that are now allowed by law to justices of the peace, and all fees collected by him in criminal actions and in actions instituted under any ordinance of the city, shall be by him paid over to the city treasurer at the end of each month, and he shall at the same time make and file with the city auditor a report in writing under oath, showing an account of all fees collected by him during the preceding month in such actions and showing the actions in which the same were collected. The police magistrate shall, before entering upon the discharge of his duties, give to the city a bond in such amount as the city council may prescribe, not less than five hundred dollars, conditioned that he will faithfully discharge the duties of his office and pay over all moneys that may come into his hands belonging to the city, and such police magistrate shall not be entitled to receive nor shall his salary be paid to him until he has fully complied with the provisions of this section.

§ 2167. **Mayor administer oaths.** The mayor and auditor of each city shall have power to administer oaths and affirmations. § 13, art. 5, c. 73, 1887.

ARTICLE 6.—CITY AUDITOR.

§ 2168. **To attend meetings of council and keep records, etc.** The city auditor shall keep his office at the place of meeting of the city council or some other place convenient thereto as the council may direct. He shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the city council, whose meetings it shall be his duty to attend. Copies of all papers filed in his office, and transcripts from all records of the city council certified by him under the corporate seal shall be competent evidence in all courts. He shall draw and countersign all orders on the treasurer in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof in books provided for that purpose. § 1, art. 6, c. 73, 1887.

§ 2169. **Reports by.** The city auditor shall report to the city council on the first days of March and September of each year the receipts and expenses and financial condition of the city, which report shall be published within thirty days thereafter in the official paper of the city or such other paper as the council may direct. He shall make and keep a list of outstanding city bonds, to whom issued, for what purpose, when and where payable, and the rate of interest they respectively bear, and recommend such action to the city council as will secure the punctual payment of the principal and interest of such bonds. He shall report annually on or before the first day of September to the city council an estimate of the expenses of the city, and likewise the revenue necessary to be raised for the current year; and the fiscal year shall commence on the first day of September. § 2, art. 6, c. 73, 1887.

§ 2170. **General duties of.** He shall make or cause to be made estimates of the expenses of any work to be done by the city and countersign all contracts made in behalf of the city, and certificates of work authorized by any committee of the city council, or by any city officers; and each contract made in behalf of the city or to which § 3, art. 6, c. 73, 1887.

the city is a party shall be void unless signed by the auditor. The city auditor shall keep regular books of account in which he shall enter all indebtedness of the city and which shall at all times show the financial condition of the city, the amount of bonds, orders, certificates or other evidences of indebtedness issued by the city council, the amount of all bonds, orders, certificates or other evidences of indebtedness which have been redeemed, and the amount of each outstanding. He shall countersign all bonds, orders or other evidences of indebtedness of the city, and keep accurate accounts thereof stating to whom and for what purpose issued and the amount thereof. He shall keep accounts with all receiving and disbursing officers of the city showing the amount they have received from the different sources of revenue and the amount which they have disbursed under the direction of the city council. He shall keep a list of all certificates issued for work or any other purpose and before the levy by the city council of any special tax upon the property in the city or any part thereof he shall report to the city council a schedule of all parcels, lots or parcels of land which may be subject to the proposed special tax or assessment and also the amount of such special tax or assessment which it may be necessary to levy on such lots or parcels of land, which schedule shall be certified to by the auditor and shall be prima facie evidence of the facts stated therein in all cases wherein the validity of such special tax or assessment shall come in question. The city council shall, if from such reports it deems such tax legal and just, cause the same to be levied in pursuance of the provisions of this chapter. If before the first day of June of any year the amount expended or to be expended chargeable to any city fund, adding thereto the current expenses estimated for the remainder of the fiscal year and chargeable to such fund, shall be equal to three-fourths of the tax authorized to be raised or revenue estimated for such fund, he shall report the same at once to the city council, and he shall not countersign any contract chargeable to such fund until the amount of taxes actually collected is ascertained; and during the remainder of the fiscal year he shall not countersign any contract, the expenses of which shall exceed the revenue actually collected for the fund to which such expenses are properly chargeable. The auditor shall examine all reports, books, papers, vouchers and accounts of the city treasurer and from time to time perform such other duties as the city council may direct. All claims and demands against the city, before they are allowed by the city council, shall be audited and adjusted by the auditor, and he shall keep a record of his acts and doings and keep a book in which he shall enter all contracts, with an index thereto, which book shall be open to the inspection of all persons interested.

#### ARTICLE 7.—BOARD OF AUDIT.

§ 1. c. 31, 1893.     **§ 2171. Board of audit.** The mayor and common council of all cities organized under the provisions of this chapter are constituted boards of audit for said cities respectively.

§ 2. c. 31, 1893.     **§ 2172. Claims for damages.** All claims against cities for damages or injury alleged to have arisen from the defective, unsafe, dangerous or obstructed condition of any street, crosswalk, sidewalk, culvert or bridge of any city, or from the negligence of the city authorities in respect to any such street, crosswalk, sidewalk, culvert



or bridge, shall, within sixty days after the happening of such injury or damage, be presented to the mayor and common council of such city by a writing signed by the claimant and properly verified, describing the time, place, cause and extent of the damage or injury.

§ 2173. **No action unless claim is presented.** No action shall be maintained against any city as aforesaid, for injuries to person or property, unless it appears that the claim for which the action was brought was presented to the mayor and common council as aforesaid, with an abstract of the facts out of which the cause of action arose, duly verified by the claimant, and that the mayor and common council did not, within sixty days thereafter, audit and allow the same. § 3, c. 31, 1893.

§ 2174. **Bar to action.** It shall be a sufficient bar and answer to any action or proceeding against the city in any court for the collection of any claim or demand, either for injury to property or person, that it had not been presented to the mayor and common council of such city in the manner herein prescribed for audit and allowance within said sixty days as aforesaid. § 4, c. 31, 1893.

ARTICLE 8. — CITY ATTORNEY.

§ 2175. **Duties of.** The city attorney shall perform all professional services incident to his office and when required shall furnish his opinion upon any subject submitted to him by the city council or its committees. § 1, art. 7, c. 73, 1887.

ARTICLE 9 — CITY TREASURER.

§ 2176. **Duties of.** The city treasurer shall receive all moneys belonging to the city, including all taxes, license money and fines, and collect all special assessments as hereinafter provided, and keep accurate and detailed accounts thereof in the manner provided in this chapter or as the city council may from time to time direct. He shall have a settlement with the auditor at the end of each month and turn over all warrants, interest coupons, bonds or other evidences of indebtedness of the city which may have been redeemed by him during the month, taking the receipt of the auditor therefor, and all such warrants, orders or other evidences of indebtedness shall be canceled by him and have written or stamped thereon the date of their payment or redemption. § 1, art. 8, c. 73, 1887.

§ 2177. **How moneys paid out.** Unless otherwise ordered by the council or provided in this chapter no moneys shall be paid out by the treasurer except upon the warrant of the mayor, countersigned by the auditor, except bonds and interest coupons, which when due may be paid upon presentation, or in case the same are payable at some place other than in the city then the money for their redemption shall be sent to the place where they are payable in time to meet such payment when due. § 2, art. 8, c. 73, 1887.

§ 2178. **City warrants.** All warrants shall be paid in the order in which they are presented, and the treasurer shall note upon the back of each warrant presented to him the date of such presentation and, when payment is made, the date of such payment; provided, that any warrant shall be paid by the treasurer in case a sufficient amount of money shall remain in the treasury to pay all warrants presented previous to such warrant. Any violation of the provisions of this § 3, art. 8, c. 73, 1887.

section on the part of the treasurer shall be sufficient ground for his removal from office by the mayor and council.

§ 4, art. 8, c. 73,  
1887.

**§ 2179. Treasurer to keep separate accounts.** He shall keep a separate account of such fund or appropriation and the debits and credits belonging thereto.

§ 5, art. 8, c. 73,  
1887.

**§ 2180. Treasurer to give duplicate receipts.** He shall give to each person paying money into the city treasury a duplicate receipt therefor, specifying the date of payment and upon what account paid, and he shall also file copies of such receipts with the auditor at the date of his monthly report.

§ 6, art. 8, c. 73,  
1887.

**§ 2181. Treasurer prohibited from using city moneys. Penalty.** He shall keep all moneys in his hands belonging to the city separate and distinct from his own moneys; and he is prohibited from using either directly or indirectly the corporation money or warrants in his custody and keeping for his own use and benefit or that of any other person or persons whomsoever; and any violation of this provision shall subject him to immediate removal from office by the mayor and city council, and upon conviction thereof they are authorized to declare such office vacant; and the city council shall appoint a successor for the term unexpired of the officer so removed.

§ 7, art. 8, c. 73,  
1887.

**§ 2182. Treasurer's report. Warrant register.** He shall report to the city council at such time as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures during and since his last report, and the state of the treasury. He shall also keep a register of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number, the fund from which paid and person to whom paid, specifying also the time of payment; and all such warrants shall be examined by the finance committee of the council at the time of making such report.

§ 8, art. 8, c. 73,  
1887.

**§ 2183. Special assessments.** All moneys received on any special assessment shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made; and said money shall be used for no other purpose whatever.

ARTICLE 10. — CITY ASSESSOR AND BOARD OF EQUALIZATION.

§ 1, art. 9, c. 73,  
1887.

**§ 2184. City assessor, duties of.** The city assessor shall perform all duties in relation to the assessing of property for the purpose of levying all city, county and state taxes. Upon the completion of the assessment roll he shall return the same to the city auditor who shall lay the same before the board of review or equalization at its regular meeting.

§ 2, art. 9, c. 73,  
1887.  
§ 1, c. 33, 1893.

**§ 2185. Appointment. Assessment roll.** The assessor shall be appointed in each even numbered year and shall be governed by the same laws and regulations as county and township assessors, except that he may list and assess any real estate on or after the first day of January in the year in which the same is subject to assessment, and he may likewise list and assess any personal property on or after the first day of April in each year, and shall return his assessment roll to the city auditor on or before the second Tuesday in June of each year. Such assessment roll shall be open to the inspection of all persons interested until the meeting of the board of review.

§ 2186. **Board of equalization meeting.** The board of equalization shall be composed of the city council and auditor, and shall meet on the third Tuesday of June in each year. In the absence of the mayor the council shall elect one of its own number to preside. The city auditor shall act as clerk of said board and keep an accurate record of all changes made in the valuation and of all other proceedings. It may adjourn from day to day until its work is completed, and a majority of the whole board shall constitute a quorum to transact business. If no quorum is present the clerk may adjourn from day to day and publicly announce the time to which the meeting is adjourned.

§ 3, art. 9, c. 73,  
1887.

§ 2187. **Duties of board.** The board of equalization shall meet at the usual place of meeting of the city council, and shall proceed to equalize and correct such assessment roll. It may change the valuation and assessment of any real and personal property upon the roll by increasing or diminishing the assessed valuation thereof as shall be reasonable and just to render taxation uniform; provided, that the valuation of any personal property as returned by the assessor shall not be increased more than twenty-five per cent without first giving the owner or his agent notice of the intention of the board so to increase it. Such notice shall be by personal notice served upon the owner or his agent, or by leaving a copy at his place of business or last place of residence, and shall state the time when the board will be in session to act upon the matter.

§ 4, art. 9, c. 73,  
1887.

§ 2188. **Other duties.** The board of equalization must place upon and add to the assessment roll any property real or personal subject to taxation which has been omitted therefrom by the owner or by the assessor, and enter the same at a valuation so that it will bear an equal and just proportion of taxation. During the session of said board any person or his attorney or agent, feeling aggrieved by anything in the assessment roll, may apply to the board for the correction of any alleged errors in the listing or valuation of his property whether real or personal, and the board may correct the same as it may deem just; or if the board has reason to believe that any person has failed to return to the assessor all personal property required by law to be returned, or if any person refuses to swear to the returns so made, the board shall notify the person who has so failed to make return or refused to swear to the return, in the same manner as prescribed in the last section, and may examine each person under oath in regard to such property; or if he refuses to appear it may fix such valuation at a sum which it may deem just.

§ 5, art. 9, c. 73,  
1887.

§ 2189. **Duty of city auditor.** Within ten days after the completion of the equalization of the assessment as herein provided, the city auditor shall deliver the same to the county auditor of the county in which such city is situated with his certificate that the same is correct as equalized by said board of equalization, and the same shall be accepted by the board of county commissioners of such county in lieu of all other assessment rolls for said property in said city, and the board of equalization of such county may increase or diminish the valuation therein placed on any class of property, so as to make such valuation uniform with the valuation of the same class of property throughout such county, but no individual assessment shall be otherwise changed, and a failure of any county or city board of equalization to hold its meetings shall not vitiate or invalidate any assessment

§ 6, art. 9, c. 73,  
1887.  
§ 2, c. 33, 1893.

or tax except as to the excess of valuation, or tax thereon, shown to have been unjustly made or levied.

§ 7, art. 9, c. 73,  
1887.  
§ 3, c. 33, 1893.

**§ 2190. Tax levy, how and when made.** The city council shall at its first regular meeting in September or within twenty days thereafter levy a tax for general purposes sufficient to meet the expenses of the year based upon the annual appropriation bill for the year, and in addition thereto an additional tax for interest and sinking fund as required by this chapter, and such levy shall be forthwith certified by the city auditor, with any levy made by the board of education of such city for school purposes, to the auditor of the county in which such city is situated. Such levy shall be made in specific amounts and the county auditor of such county shall extend the same upon the tax lists of the county for the current year, in the same manner and with the same effect as other taxes are extended, except that the city tax may be included in one amount, and the school tax in one amount for each person or lot, or parcel of land. The levy herein provided for may be made at the same meeting at which the annual appropriation bill is finally passed, and the provisions of law fixing the times at or within which any act or proceeding in the assessment or levy of any taxes shall be done or taken, shall be deemed and held to be directory and not mandatory.

§ 8, art. 9, c. 73,  
1887.  
§ 3, c. 100, 1890.  
§ 1, c. 116, 1893.

**§ 2191. County treasurer to collect taxes and pay over to city treasurer.** The county treasurer of such county shall collect and enforce the collection of the city and school tax with, and in the same manner as other taxes, and shall pay over to the city treasurer on the first of every month on demand, all such taxes so collected during the preceding month and shall forthwith notify the city auditor of the amount so paid over. He shall take duplicate receipts for all such amounts so paid to the city treasurer, one of which shall be forthwith sent to the city auditor.

§ 9, art. 9, c. 73,  
1887.

**§ 2192. Money paid to city treasurer, how apportioned.** The city treasurer and auditor shall each apportion said amounts so received by the city treasurer, and credit each fund with its proportion or share according to the levy made by the council; and the county treasurer at the time of paying over such funds shall furnish the city treasurer and auditor with a statement of the amount collected for each year separately.

#### ARTICLE 11. — POLICE MAGISTRATE AND CITY JUSTICE OF THE PEACE.

§ 1, art. 10, c. 73,  
1887.  
§ 5, c. 33, 1889.

**§ 2193. Jurisdiction of police magistrate.** The police magistrate shall have exclusive jurisdiction of, and it shall be his duty to hear, try and determine all offenses against the ordinances of the city; and he shall have concurrent jurisdiction with the justices of the peace of the county in all other actions, civil and criminal. All fines, penalties and forfeitures for the violation of any city ordinance shall, when collected, be paid by the officer receiving the same to the city treasurer of such city.

§ 2, art. 10, c. 73,  
1887.

**§ 2194. When magistrate shall issue warrants.** Whenever complaint shall be made to the police magistrate upon oath or affirmation of any person competent to testify against the accused, that an offense has been committed of which the police magistrate has jurisdiction, such magistrate shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the chief

of police or the sheriff or any constable of the county or some person specially appointed by said magistrate for such purpose.

§ 2195. **Magistrate, when to hear complaint.** When any person shall be brought before such magistrate upon a warrant it shall be his duty to hear and determine the complaint alleged against the defendant. § 3, art. 10, c. 73, 1887.

§ 2196. **Postponement of trials.** Upon good cause shown such magistrate may postpone the trial of the case to a day certain in which case he shall require the defendant to enter into an undertaking with sufficient surety conditioned that he will appear before such magistrate at the time and place appointed and then and there answer the complaint alleged against him. § 4, art. 10, c. 73, 1887.

§ 2197. **To summon witnesses.** It shall be the duty of such magistrate to summon all persons whose testimony may be deemed material as witnesses on the trial, and enforce their attendance by attachment if necessary; and when a trial shall be continued by said magistrate he may verbally notify such witnesses as may be present to attend before him at the time to which the action is continued to testify therein, and such verbal notice shall be as valid as a summons. § 5, art. 10, c. 73, 1887.

§ 2198. **Trials, how governed.** All trials before said magistrate for misdemeanors arising under the laws of the state shall be governed by the criminal procedure applicable to justices' courts in like cases. § 6, art. 10, c. 73, 1887.

§ 2199. **Concerning judgment of conviction.** In all trials for offenses under the ordinances of the city, if the defendant is found guilty the magistrate shall render judgment accordingly. It shall be a part of the judgment that the defendant stand committed until such judgment is complied with, in no case to exceed one day for every one dollar and twenty-five cents of fine and costs assessed against said defendant. § 7, art. 10, c. 73, 1887.

§ 2200. **Court open every day except Sunday.** Said magistrate shall be a conservator of the peace and his court shall be open every day except Sunday to hear and determine any and all cases cognizable before him; and shall have power to bring persons forthwith before him for trial, and no act shall be performed by him on Sunday except to receive complaints, issue process and take bail and receive verdicts. § 8, art. 10, c. 73, 1887.

§ 2201. **Appeals.** In all actions before such magistrate arising under the ordinances of the city, an appeal may be taken by the defendant to the district court of the county; but no appeal shall be allowed unless such defendant shall within ten days, in case of fine, and within twenty-four hours, in case of imprisonment, enter into an undertaking with sufficient surety to be approved by the magistrate, conditioned in case of fine for the payment of said fine and costs and costs of appeal, and in case of judgment for imprisonment, that he will render himself in execution thereof if it should be determined against the appellant. § 9, art. 10, c. 73, 1887.

§ 2202. **Not to remit fines.** Any person convicted before such magistrate of an offense under the ordinances of the city shall be punished by fine and imprisonment as may be regulated by ordinance, and under no circumstances shall such magistrate remit fines or penalties or payment of costs or otherwise. § 10, art. 10, c. 73, 1887.

§ 2203. **City justice of the peace. Jurisdiction.** The city justice of the peace shall have the same jurisdiction as justices of the peace within said county in all civil and criminal actions, and within § 6, c. 33, 1889.

the jurisdiction hereby conferred the power of said justice as a committing magistrate and in the trial of actions shall be the same as is now or may hereafter be provided by law for justices of the peace, and the process and proceedings of said court shall be governed by the laws regulating proceedings in justices' courts; and in all cases tried in said court an appeal may be taken to the district court in the same manner and upon the same conditions as provided by law in cases of appeal from justices of the peace, and on such appeal the district court shall have the same powers as in such cases.

§ 7, c. 33, 1889.

**§ 2204. Vacancy.** In case of a vacancy in the office of police magistrate by death, resignation or otherwise the city council shall call a special election to fill such vacancy until the next annual election and until his successor is elected and qualified, and in case of the temporary absence, interest or disability of such magistrate it shall be the duty of the city justice of the peace to act as police magistrate during such vacancy, absence or disability in the trial of causes cognizable before said police magistrate.

§ 12, art. 10, c. 73, 1887.  
§ 5, c. 33, 1889.

**§ 2205. Duty of magistrate when prosecution is malicious.** If upon any trial under the provisions of this article it shall appear to the satisfaction of the police magistrate or the jury in cases arising under the laws of the state, that the prosecution was commenced without probable cause or from malicious motives, the jury or magistrate trying the action shall state the name of the complaining witness in the findings, and shall impose the costs of the prosecution upon him, and judgment shall be rendered against such complaining witness that he pay such costs and stand committed until the same are paid.

§ 13, art. 10, c. 73, 1887.  
§ 5, c. 33, 1889.

**§ 2206. Power of magistrate. Jury.** The police magistrate shall have power to enforce due obedience to all orders and judgments made by him, and he may fine or imprison for contempt offered to him while holding his court, or to process issued or orders made by him, in the same manner and to the same extent as provided for justices' courts. Appeals may be taken to the district court from all decisions of said court in the same manner as is provided for taking appeals from justices' courts, and the district court shall on such appeals take judicial notice of all the ordinances of said city. Actions before the police magistrate arising under the city ordinance shall be tried and determined by the magistrate without the intervention of a jury except in cases where under the provisions of the ordinances of the city imprisonment for a longer period than ten days is made a part of the penalty, or the maximum fine shall be twenty dollars or over, and the defendant shall demand a trial by jury before the commencement of such trial; and when a demand shall be so made it shall be the duty of said magistrate to write down the names of eighteen persons, residents of the city and having the qualifications of jurors in the district court, and the defendant and the attorney for the city shall each strike off three names, or in case the defendant shall neglect or refuse so to do then the police magistrate with the attorney for the city shall strike off such names, and the magistrate shall at once issue his venire to the chief of police commanding him to summon the twelve persons whose names remain upon the list as jurors. And in all trials by jury in said court challenges shall be allowed in the same manner and for the same causes as in the district court in cases of misdemeanor; and in case the number shall be reduced below twelve by such challenges, or any portion of said number

shall fail to attend, then the chief of police shall summon a sufficient number of talesmen having the qualifications of jurors to complete the panel, which shall in all cases consist of twelve jurors. If either party objects to the competency of a juror the question thereon must be tried in a summary manner by the magistrate, who may examine the juror or other witnesses under oath. Each person summoned as a juror in any case shall be entitled to a fee of fifty cents, and in case of conviction such fees shall be taxed against the defendant as a part of the costs of the case.

§ 2207. **Proceedings, how governed.** In all cases not herein specially provided for, the process and proceedings of said court shall be governed by the laws regulating proceedings in justices' courts in criminal cases. § 14. art. 10, c. 73. 1887.

§ 2208. **Office hours of magistrate.** Said magistrate shall be in attendance at his office for the transaction of business at such reasonable hours as the city council may prescribe, and complaints may be made to and writs and process issued by him at all times in court or otherwise. § 15. art. 10, c. 73. 1887.

#### ARTICLE 12.—MUNICIPAL COURT.

§ 2209. **Municipal court to be established, when.** A municipal court is hereby established in each incorporated city of this state, having a population of five thousand inhabitants or over. Such municipal courts shall have in addition to the jurisdiction hereinafter conferred, exclusive jurisdiction of all violations of ordinances of the city in which it is established and from the time of its creation all the jurisdiction and the powers heretofore exercised by police magistrates in such cities shall cease. Such court shall be a court of record and have a clerk and a seal, and its jurisdiction shall be coextensive with the limits of the county in which such city is situated. In actions in which there are two or more defendants, if one defendant is served with process within the county, the other defendants may be served at any place within the state.

§ 2210. **Jurisdiction of defined.** Such court shall exercise such jurisdiction as is or may hereafter be conferred by law in civil and criminal actions upon county courts having increased jurisdiction, and in addition thereto it shall have and exercise the same jurisdiction as is now conferred upon police magistrates and justices of the peace. No municipal court shall have any jurisdiction in probate matters, or in actions for divorce or the annulment of marriage.

§ 2211. **Powers of defined.** The municipal court shall have power and authority to issue all process, civil and criminal, necessary and proper to carry into effect its jurisdiction and its judgments and orders; provided, such courts shall not have power to issue writs of habeas corpus, quo warranto, mandamus or prohibition.

§ 2212. **Judge and term of office.** There shall be a judge of such court whose term of office shall be two years and until his successor is elected and qualified.

§ 2213. **Judge to be elected, when.** A judge of such court shall be elected by the qualified electors of such city at the general city election held in April, 1896, and thereafter at the general election for city officers in each even numbered year, and the person receiving the highest number of votes at such election, shall be declared duly elected.

§ 2214. **Vacancy, how filled.** In case of vacancy in the office of municipal judge by reason of the death, removal from office of such judge or otherwise, his place may be filled in the manner provided for filling vacancies in other elective city offices.

§ 2215. **Qualifications of judge. Oath.** The judge of such court shall be a resident of the city, a person learned in law and duly admitted to practice as an attorney in the courts of this state; and before entering on the duties of such office he shall take and subscribe the oath prescribed in section 211 of the constitution, which oath shall be filed in the office of the city auditor.

§ 2216. **Powers of judge.** A municipal judge shall have the general powers of judges of courts of record, and may administer oaths and take acknowledgments. He shall see that the criminal laws of the state and the ordinances of the city are obeyed and executed; and for that purpose he shall hold court each day, Sundays and legal holidays excepted, and proceed to hear and dispose of, in a summary manner, all cases which are brought before him by the police officers of the city or otherwise, either with or without process, for the violation of the criminal laws of this state committed within the county in which such city is situated, or of the ordinances of such city. The judge of such court shall be the chief judicial magistrate of the city.

§ 2217. **Power to prescribe rules and regulations.** Such judge shall have power to make and prescribe such rules and regulations for the government of the court, not inconsistent with law, as he shall deem proper.

§ 2218. **Judge to appoint clerk.** The judge of such court shall have power to appoint a clerk who shall act under his authority.

§ 2219. **Powers and duties of clerk.** The clerk shall have the care and custody of the books, papers and records of the court. He may administer oaths to witnesses and jurors and other persons and take acknowledgments. He shall keep minutes of the proceedings, enter judgments and orders and issue commitments, as well as all other writs and processes, and keep the records of the court under the direction of the judge, and when the judge is absent, he may adjourn the court from day to day. He shall tax all costs and disbursements allowed in each action, subject to review by the judge, and do all other acts necessary and proper in the enforcement of the jurisdiction of the court. He shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same, and shall on each day deliver to the city or county treasurer, as the case may be, all moneys so received with an itemized account thereof taking the treasurer's receipt therefor.

§ 2220. **Duty of city and state's attorney.** The city attorney shall have charge of the prosecution of all violations of ordinances of the city, and the state's attorney of the prosecution or examination of offenses against the laws of the state.

§ 2221. **May appoint stenographer. Compensation.** The judge of such court may appoint a stenographer thereof and fix his compensation, which compensation shall not exceed the sum of five dollars per day for each day actually employed, to be audited by the city auditor and paid out of the city treasury upon the certificate of the judge, and in the performance of his duties such stenographer shall be subject to the orders and directions of the judge of the court



who may at any time discharge such stenographer and employ and appoint another.

§ 2222. **Stenographer's transcript, how paid for.** When the stenographer is required by any party to an action, examination or proceeding, to transcribe his record into longhand, the party requiring the same shall pay to the clerk of such court ten cents per folio of one hundred words for such transcript and three cents per folio of one hundred words for each copy thereof, two-thirds of such amount to be paid to the stenographer and one-third to be paid into the city treasury. If a transcript is ordered by the state's attorney on behalf of the county, the expense thereof shall be audited by the county auditor and paid out of the county treasury upon the certificate of the judge.

§ 2223. **Terms of court.** Such court shall hold regular terms for the trial of civil actions and the hearing of motions on each Tuesday of every month, which term shall continue from day to day until the business of such term is finished. The judge may set cases for trial upon any day in that or any subsequent term. The terms of such court shall open at ten o'clock in the forenoon.

§ 2224. **Clerk to make calendar.** The clerk of the court shall, prior to each term, make a calendar of the causes which will come up for trial or other disposition before the court at such term, in the manner directed by the judge.

§ 2225. **Procedure.** All civil actions and proceedings in such court shall be commenced and conducted as prescribed in the code of civil procedure relating to the commencement, pleading, practice and procedure in the district court as nearly as may be practicable, except as in this article otherwise provided.

§ 2226. **Practice.** The time within which any act is to be done in such court shall be one-half of the statutory period prescribed for district court proceedings, except as follows:

1. No such period shall be less than three days.
2. Two days' notice of taxation of costs shall be given.
3. Notes of issue shall be filed at least three days before the term, and notice of trial shall be served at least four days before the term.
4. The time within which motions for a new trial may be made and appeals taken shall be the same as in the district court.
5. The notice required for taking depositions to be used in such court shall be the same as in the district court.
6. Defaults may be opened and judgments and orders set aside or modified for cause shown within sixty days after the party affected thereby shall acquire knowledge of the same.

§ 2227. **Provisional remedies.** Proceedings by attachment and in arrest and bail and claim and delivery in such court shall be the same as in the district court.

§ 2228. **Depositions, how taken.** Depositions may be taken and used in such court in like manner as in the district court.

§ 2229. **Tenders, how pleaded.** Tenders of money may be pleaded and made in such court in like manner and with like effect as in the district court.

§ 2230. **Executions stayed, how.** Executions may be stayed in such court in like manner as in the district court.

§ 2231. **Judgments confessed, how.** Judgments may be confessed and filed and entered in such court as in the district court.

§ 2232. **Style of process.** All process, except summons, shall

be attested in the name of the judge of such court and issued under the seal of the court, signed by the clerk and directed for service to the sheriff of the proper county, except as herein otherwise provided. The forms of process may be prescribed by the court by rule or otherwise, and any form so prescribed shall be valid and sufficient and such forms may be changed by the court at any time. In the absence of such prescribed forms, the forms in use in the district court may be changed and adapted to the style of the municipal court, and used at the discretion of such court. The provisions of the code of civil procedure relating to the form of summons and the subscription of the same shall as far as applicable be followed in the municipal court.

§ 2233. **Summons and subpoenas, how served.** The summons and subpoenas may be served by the sheriff or any constable of the county, or any police officer of the city, or by any other person not a party to the action.

§ 2234. **Procedure in criminal actions.** When sitting as a committing magistrate in the examination of offenses which the municipal court has not jurisdiction to hear, try and determine, the provisions of the justices' code and the code of criminal procedure relating to such proceedings shall be applicable to and govern the municipal court. When trying offenses against the ordinances of the city, the provisions of the preceding article, relating to police magistrates in cities, shall be applicable to and govern the municipal court. The provisions of the justices' code shall be applicable to and control the municipal court in the trial of offenses which justices' courts have jurisdiction to hear, try and determine.

§ 2235. **Attorney's fees.** In all actions in which the amount of the judgment or the value of the property recovered is less than two hundred dollars, the costs and attorney's fees shall be the same as in justices' courts. In actions in which the amount of the judgment or the value of the property recovered exceeds two hundred dollars, the costs and attorney's fees shall be the same as in the district court.

§ 2236. **Trial by jury, how.** Trial by jury in such court shall in all respects be conducted as in the district court and all laws of a general nature applicable to jury trials in the district court shall apply to such municipal court.

§ 2237. **Jurors, how selected.** The judge of the municipal court and the president of the city council of the city shall, on the last Saturday of each month, meet at the municipal court room in such city, and from the electors of such city, select and designate forty-eight of such electors as jurors of such court, to serve when required and drawn, during the succeeding month and until their successors are selected. The clerk of the court shall thereupon write the names of the jurors so selected upon separate slips of paper and place the same in a wheel or box, and whenever a jury is required in such court he shall thereupon by lot, draw, for a jury of six men, twelve jurors, and for a jury of twelve men, twenty-four jurors. The jurors so drawn shall be summoned to attend the trial of the case wherein they were drawn. The first six or twelve jurors drawn shall constitute a jury unless some of such jurors are excused or challenged, in which case the clerk shall call as many of the remaining jurors as may be required to fill the place of the jurors excused. In the event that a jury cannot, for any cause, be filled and sworn from the jurors so summoned, the clerk shall draw other names from such box or wheel and summon the same until the jury is filled; provided, that

each party to a civil or criminal action shall be entitled to three peremptory challenges and no more.

§ 2238. **Compensation of jurors.** Each juror so summoned and attending in such court and sworn in the trial of an action, shall be entitled to like compensation as jurors in justice's court. The party demanding a jury in any civil action shall be required to advance the fees of such jury before the venire shall issue.

§ 2239. **New trials, when granted.** Municipal courts shall have power to grant new trials of all causes tried before such courts and the provisions of the codes of civil and criminal procedure relating to new trials shall be applicable to such courts.

§ 2240. **Appeals to supreme court.** Any cause in which the amount of judgment or the value of the property recovered exceeds the sum of two hundred dollars, or in which the title or boundary of real property comes in question may be removed by appeal from the municipal court to the supreme court of the state, in like manner and upon like proceedings, and with like effect, as from the district court, and the supreme court shall have the same power on any such appeal as on appeals from the district court, and all the provisions of the code of civil procedure relative to appeals from the district court shall be applicable to such appeals. Any cause in which the amount of the judgment or the value of the property recovered, is two hundred dollars or less, and actions of forcible detainer, may be appealed from the municipal court to the district court in like manner and upon like proceedings and with like effect as appeals from courts of justices of the peace, and the provisions of the justice's code relating to appeals to the district court shall be applicable to all appeals in such cases.

§ 2241. **Judgment a lien upon real property, when.** No judgment rendered in such court shall attach as a lien upon real property until an abstract thereof is filed in the district court. Any person in whose favor a judgment is rendered in the municipal court may demand and receive from the clerk an abstract of such judgment, duly certified, and file the same in the office of the clerk of the district court in the proper county, who shall file and docket the same as in the case of abstracts of judgments from justices' courts. Every judgment shall become a lien upon the real estate of the debtor from the time of filing such abstract to the same extent as a judgment of the district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of such district court, and carried into execution by its process the same as if rendered in such district court.

§ 2242. **Powers of police officers.** The police officers of the city are vested with all the powers of constables in matters pertaining to the municipal court. The police officers of such city must serve all process or other papers delivered to them in such court. All such process shall be delivered to the chief of police, and he shall see that the same is faithfully served and duly executed, except as otherwise provided herein.

§ 2243. **Mayor to designate police officer.** The mayor of the city shall designate a police officer to attend upon such court, and such officer shall attend and obey the orders of the court.

§ 2244. **Salary of judge and clerk.** The salary of the judge of the municipal court shall be two thousand dollars per annum, payable out of the city treasury in equal monthly installments. The

clerk of the municipal court shall receive a salary of nine hundred dollars per annum, to be paid out of the city treasury in equal monthly installments.

**§ 2245. Fees, commissions and mileage, how disposed of.** The fees, commissions and mileage of the officers serving or executing any process of such court shall be the same as in similar cases in the district court. The fees of police officers serving process, except mileage, shall be covered into the city treasury. The fees of the clerk of such court shall be the same as the fees of the clerk of the district court, and shall be paid into the city treasury and an account thereof kept and rendered substantially as provided in article 2 of chapter 27 of this code, and the provisions thereof shall be applicable to clerks of municipal courts.

**§ 2246. Judge to hold court.** The judge of the municipal court may hold sessions and act as such court, and shall be possessed of all the powers and authority of such court. Such judge may act at any time or upon any occasion deemed proper by him.

**§ 2247. Judge may practice in district and supreme courts.** Such judge may practice in the district and supreme courts of this state in cases which have not been tried before him.

#### ARTICLE 13. — CITY ENGINEER.

§ 1, art. 11, c. 73,  
1887.

**§ 2248. Qualifications.** The city engineer shall be a practical surveyor and engineer. He shall keep his office in some convenient place in such city, and the council shall by ordinance prescribe his duties and fix his compensation for services performed for the city. All surveys, profiles, plans or estimates made by him for the city shall be the property of the city and shall be carefully preserved in the office of the engineer open to inspection by all persons interested; and the same together with all the books and papers appertaining to said office shall be delivered over by the engineer at the expiration of his term of office to his successor or to the city council.

#### ARTICLE 14. — POLICE OFFICERS.

§ 1, art. 12, c. 73,  
1887.

**§ 2249. Powers of.** The chief of police shall perform such duties as shall be prescribed by the city council for the preservation of the peace. All police officers and watchmen of any city shall possess within the city limits the powers of constables by the laws of this state, and it shall be their duty to execute and serve all warrants, process, commitments and all writs whatsoever issued by the police magistrate or city justice of the peace for any violation of the laws of the state or of the ordinances of said city or any provisions of this chapter; and also all writs and process whatsoever issued by said justices in civil actions; and they shall have authority to pursue and arrest any person fleeing from justice in any part of the state; and when performing the duties aforesaid shall be entitled to the same fees as constables for like service; watchmen shall have authority to arrest and detain any person guilty of any breach of the peace or any violation of the laws of the state or of the ordinances of the city, and for these purposes shall possess the powers of constables under the laws of this state while on duty.

§ 2250. **Warrants.** All warrants issued by the police magistrate or city justice for the violation of any general law of this state shall run to the sheriff or any constable of the county or to the chief of police or any policeman of the city; but no chief of police or policeman when he goes outside of the city to make an arrest shall receive any fees therefor unless the commissioners of the county are satisfied that a delay in obtaining the sheriff or his deputy or a constable to make the arrest might endanger an escape.

§ 2, art. 12, c. 73,  
1887.

ARTICLE 15. — ELECTIONS.

§ 2251. **Time and place of.** There shall be an annual election for elective officers herein provided, held on the first Monday in April of each year at such place or places in each ward as the council shall designate, and the polls shall be kept open continually from eight o'clock in the forenoon until five o'clock in the afternoon and no longer, and ten days' previous notice shall be given by the council of the time and place of holding such election, by publication in at least two of the city papers published in said city, if two shall be published therein.

§ 1, art. 13, c. 73,  
1887.  
§ 40, c. 66, 1891.  
§ 1, c. 60, 1883.

§ 2252. **Election districts and precincts.** Each ward shall constitute an election district; but whenever the number of legal voters in any ward shall exceed three hundred the council may by ordinance divide such ward into two or more precincts for voting purposes, and whenever the number of legal voters in any two or more contiguous wards shall not exceed one hundred as determined by the last annual election the council may by ordinance consolidate such two or more wards into one precinct for voting purposes; provided, that such ordinance shall be passed and take effect before the time of giving notice of an election; and said wards and precincts shall constitute election districts for all state and county elections.

§ 2, art. 13, c. 73,  
1887,  
am'd.

§ 2253. **Qualified voters.** Every legal voter of the county in which such city is situated who shall have been a resident of the city ninety days next preceding a city election is declared a citizen of said city and shall be entitled to vote at all city elections; provided, that the city council shall provide for the registration of all voters as required by the laws of the state, and no person shall be entitled to vote in any other place than the ward or precinct where he resides.

§ 3, art. 13, c. 73,  
1887,  
§ 121, Const.

§ 2254. **Board of aldermen divided by lot into two classes.** At the first election under this article there shall be elected the full number of aldermen to which the city shall be entitled. At the first meeting of the city council after such election, the aldermen elected shall be divided by lot into two classes; those of the first class shall continue in office for one year, and those of the second for two years.

§ 4, art. 13, c. 73,  
1887.

§ 2255. **Oath and duties of judges and clerks of elections.** The manner of conducting and voting at elections to be held under this article, and contesting the same, the keeping of poll lists and canvassing the votes, shall be the same as nearly as may be as in the case of the election of county officers under the general laws of this state. The judges of elections shall appoint clerks when necessary to fill vacancies, and the judges and clerks shall take the same oath and have the same powers and authority as the judges and clerks of general state elections. After the closing of the polls the ballots shall be counted and the returns made out and returned, under seal to the city

§ 5, art. 13, c. 73,  
1887.

auditor within two days after the election, and thereupon the city council shall examine and canvass the same and declare the result of the election and cause a statement thereof to be entered on its journal.

§ 7, art. 13, c. 73,  
1887.

**§ 2256. What elects. Tie, how decided.** The person having the highest number of votes for any office shall be declared elected. In case of a tie in the election of any city officer it shall be determined by lot in the presence of the city council in such manner as it shall direct, which candidate or candidates shall hold office.

§ 8, art. 13, c. 73,  
1887.

**§ 2257. City auditor to notify officers elected or appointed.** It shall be the duty of the city auditor within five days after the result of the election is declared or appointment made to notify all persons elected or appointed to office of their election or appointment, and unless such persons shall respectively qualify within ten days after such notice the office shall become vacant.

§ 9, art. 13, c. 73,  
1887.

**§ 2258. New election on failure to qualify.** If there is a failure to elect any officer herein required to be elected, or the person elected should fail to qualify, or for any other cause that may arise, the city council may forthwith order a new election therefor, and in all cases when necessary for the purposes of this chapter may call special elections, canvass the returns thereof, and provide by ordinance for the mode of conducting the same; and shall give notice of such special elections in which shall be stated the questions to be voted upon, and cause such notices to be published for the same length of time and in the same manner as is required in the case of regular annual elections in such city.

§ 10, art. 13, c.  
73, 1887.

**§ 2259. When term of office commences.** The term of each officer elected under this chapter shall commence on the third Tuesday of April of the year for which he was elected.

§ 11, art. 13, c.  
73, 1887.

**§ 2260. When office deemed vacated.** Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office and the city council shall proceed to fill the vacancy as herein prescribed.

ARTICLE 16. — FINANCE.

§ 1, art. 14, c. 73,  
1887.

**§ 2261. Fiscal year.** The fiscal year of each city organized under this chapter shall commence on the first day of September of each year.

§ 2, art. 14, c. 73,  
1887.

**§ 2262. General appropriation, how made.** The city council shall at its regular meeting in September of each year or within ten days thereafter pass an ordinance, to be termed the annual appropriation bill, in which it may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such corporation; and such ordinance shall specify the purposes for which such appropriations are made and the amount appropriated for each purpose. No further appropriations shall be made at any other time within such fiscal year unless the proposition to make each appropriation has been first sanctioned by a majority of the legal voters of such city either by a petition signed by them or at a general or special election duly called for that purpose.

§ 3, art. 14, c. 73,  
1887.

**§ 2263. Special appropriation for improvements, how made.** Neither the city council nor any department or officer of the corporation shall add to the corporation expenditures in any one year

anything over and above the amount provided for in the annual appropriation bill of that year, except as herein otherwise specially provided; and no expenditure for an improvement to be paid for out of the general fund of the corporation shall exceed in any one year the amount provided for such improvement in the annual appropriation bill; provided, that nothing herein contained shall prevent the city council from ordering by a two-thirds vote any improvement, the necessity of which is caused by any casualty or accident happening after such annual appropriation is made. The city council may order the mayor and finance committee to borrow a sufficient amount to provide for the expense necessary to be incurred in making any improvements, the necessity of which has arisen as is last above mentioned, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall be added to the amount authorized to be raised in the next general tax levy and embraced therein. Should any judgment be obtained against the corporation the mayor and finance committee under the sanction of the city council may borrow a sufficient amount to pay the same, for a space of time not exceeding the close of the next fiscal year, which sum and interest shall in like manner be added to the amount authorized to be raised in the general tax levy of the next year and embraced therein.

**§ 2264. Contracts, how made.** No contract shall be made by the city council and no expense shall be incurred by any officers or departments of the corporation, whether the object of the expenditures shall have been ordered by the city council or not, unless an appropriation shall have been previously made concerning such expense, except as herein otherwise expressly provided. § 4. art. 14, c. 73.  
1887.

ARTICLE 17. — SPECIAL ASSESSMENTS FOR LOCAL IMPROVEMENTS.

**§ 2265. City council to make.** The city council shall have power to make assessments for local improvements on property adjoining or benefited thereby, including extension of water mains in cities exclusively owning and operating a public system of waterworks, and collect the same in the manner hereinafter provided, and to fix, determine and collect penalties for nonpayment of any special assessment and taxes. § 1. art. 15, c. 73.  
1887.  
§ 1. c. 95, 1890.

**§ 2266. Commissioners of local improvements, how appointed.** The council upon ordering any improvements to be paid for by special assessments shall appoint three commissioners who shall be disinterested freeholders and qualified voters of the city, to view the premises and assess the damages which may be occasioned by the taking of private property or any other damages arising from the making of such improvement. Such commissioners shall be notified as soon as practicable by the city auditor to attend at his office at a time to be fixed by him for the purpose of qualifying and entering upon their duties, and in case any such commissioners upon being so notified shall neglect or refuse to attend as aforesaid, he shall forfeit and pay a fine to the city not exceeding fifty dollars, and shall be liable to be prosecuted therefor before the police magistrate as in the case of fines imposed for the violation of an ordinance of said city; and in case one only of said commissioners shall so neglect or refuse to attend, the two remaining commissioners shall fill the vacancy; in all other cases the vacancy shall be filled by the council. § 2. art. 15, c. 73.  
1887.  
§ 1. c. 27, 1895.

§ 3, art. 15, c. 73,  
1887.

§ 2267. **Oath of commissioners.** The commissioners shall be sworn by the city auditor to discharge their duties as commissioners in the matter with impartiality and fidelity and to make due return of their action and doings to the city council.

§ 4, art. 15, c. 73,  
1887.

§ 2268. **Duties of commissioners.** The said commissioners shall with all reasonable speed, with the assistance of the city engineer of such city, cause a survey and plat of the proposed improvement to be made and filed with the city auditor, exhibiting as far as practicable the land or parcels of property required to be taken or which may be damaged thereby; and shall thereupon give notice by publication in the official newspaper of said city for at least ten days to the effect that such plat has been filed and that said commissioners will meet at a place and time designated by them in such notice, and thence proceed to view the premises and assess the damages for property to be taken or which may be damaged by such improvement.

§ 5, art. 15, c. 73,  
1887.

§ 2269. **Same.** At the time and place mentioned in such notice the commissioners shall view the premises and may hear any evidence or proof offered by the persons interested, and adjourn from day to day if necessary for the purpose aforesaid. When the view and hearing aforesaid shall be concluded they shall determine and assess the amount of damages to be paid to the owner of each parcel of property proposed to be taken or which may be damaged by such improvement, and in so doing shall take into consideration the value of the property proposed to be taken, with such other damage as may be incident thereto, and also the advantages which will accrue to such owner in making such improvements; and in case the making of such improvements should require the removal of any building or otherwise injure any permanent improvements the commissioners shall assess the damage separately from the damages to the land upon which they are erected.

§ 6, art. 15, c. 73,  
1887.

§ 2270. **Same.** If the lands and buildings belong to different persons, or if the land is subject to lease, mortgage or judgment, or if there is any estate in it less than an estate in fee, the injury or damage done to such persons or interest respectively may be awarded to them by the commissioners, less the benefit resulting to them from the improvement; provided, that the person owning such interests or his authorized agent shall make application to such commissioners for such division of the award prior to the filing of their report.

§ 7, art. 15, c. 73,  
1887.

§ 2271. **Same.** The commissioners having ascertained and assessed the damages aforesaid shall make and file with the city auditor a written report to the city council of their action in the premises, embracing a schedule or assessment of the damages in each case, with a description of the land and the names of the owners, if known to them, and also a statement of the costs of the proceedings.

§ 8, art. 15, c. 73,  
1887.

§ 2272. **Duty of city auditor on report of commissioners.** Upon such report being filed in the office of the city auditor such auditor shall give at least ten days' notice by publication in the official newspaper of such city, to the effect that such assessment has been returned and that the same will be confirmed by the city council at a meeting thereof to be named in said notice unless objections are made in writing by persons interested in any land required to be taken. The city council upon the day fixed for the consideration of such report or at any subsequent meeting to which the same may stand over or be referred, shall have power in its discretion to confirm, revise or annul the assessment, giving due consideration to any objections



interposed by persons interested; if the report is not confirmed by the city council proceedings may be taken anew to assess the damages.

**§ 2273. Damages for local improvements, how paid.** The damages assessed shall be paid out of the general fund of the city, and shall be paid, tendered or deposited and set apart in the city treasury to and for the use of the persons entitled thereto within six months after the confirmation of such assessment and report, and in case the city council is unable to determine to whom the damages in any particular case so awarded shall be paid, or in case of disputed claims in relation thereto, the damages in such case may be deposited by order of the city council in the district court of the county in the same manner as moneys are paid into court, until the persons entitled thereto shall substantiate their claims. § 9. art. 15. c. 73, 1887.

**§ 2274. Proceedings when improvements to be made.** Whenever in making such improvement it shall be necessary to remove any building or any part thereof, the commissioners shall assess the damage to the owner thereof in case the building is taken, also the damage in case the same should be removed, and the owner thereof shall elect which assessment he will take, by a written notice to be presented to the city council at the time of the confirmation of the assessment. And in case he elects to remove such building the same shall be done within thirty days after such confirmation, and shall thereupon be entitled to the amount so awarded. When such owner shall not have elected to remove such building, or shall have neglected to remove after having so elected, within the prescribed time, such buildings or so much thereof as may be necessary, upon payment or depositing the amount of damages so awarded in manner aforesaid, may then be taken and appropriated, sold or disposed of as the city council may direct, and the same or the proceeds thereof shall belong to the city. § 10. art. 15. c. 73. 1887.

**§ 2275. Party aggrieved may appeal. No pleadings required.** Any person feeling himself aggrieved by the assessment may by notice in writing served on the proper officers of the city, a copy whereof with proof of service shall be filed in the office of the clerk of the district court of such county, within twenty days after the confirmation of said report or assessment, appeal from such assessment to the district court aforesaid, when such appeal shall be tried by the court and jury as in ordinary cases; but no pleadings shall be required, and the party appealing shall specify in the notice of appeal the grounds of objection to such assessment, and shall not be entitled to urge any other objections than those specified, and a transcript of such report certified by the city auditor or the original thereof shall be prima facie evidence of the facts therein stated and that such assessment was just and made in conformity to law. Such appeal shall be entered and brought on for trial and be governed by the same rules in all other respects as appeals from justices of the peace in civil actions and the judgment of such court therein shall be final. § 11. art. 15. c. 73. 1887.

**§ 2276. Profiles, where filed.** Whenever any public ground, street or alley shall be laid out, widened or enlarged under the provisions of this article, the city council shall cause an accurate survey and profile thereof to be made and filed in the office of the city engineer and also in the office of the register of deeds of the county in which such city is situated. § 12. art. 15. c. 73. 1887.

§ 13, art. 15, c.  
73, 1887.

**§ 2277. Petition to vacate streets and alleys, how made. Party aggrieved may appeal to district court.** No public grounds, streets or alleys, or part thereof within the city shall be vacated or discontinued by the city council except upon a petition of a majority of the owners of property on the line of such public grounds, streets or alleys resident within the city. Such petition shall set forth the facts and reasons for such vacation accompanied by a plat of such public grounds, streets or alleys proposed to be vacated, and shall be verified by the oath of at least two of the petitioners, and the consent in writing of all the owners of the property adjoining the plat to be so vacated. The city council shall thereupon if they deem it expedient that the matter should be proceeded with order the petition to be filed with the city auditor, who shall give notice by publication in the official newspaper of the city for four weeks, at least once in each week, to the effect that such petition has been filed as aforesaid, and stating in brief its object and that said petition will be heard and considered by the council or a committee thereof on a certain day therein specified, not less than ten days from the expiration of such publication. The city council or such committee as may be appointed by it for the purpose, at the time and place appointed shall investigate and consider the matter and shall hear the testimony and evidence of persons interested. The city council thereupon after hearing the same, or upon the report of such committee favoring the granting of such petition, may by resolution passed by a two-thirds vote of all the members, elect to declare such public grounds, streets, alleys or highways vacated; which resolution, before the same shall go into effect, shall be published as in the case of ordinances, and thereupon a transcript of such resolution duly certified by the city auditor shall be filed for record and duly recorded in the office of the register of deeds of the county. Any person aggrieved thereby may within twenty days after publication of such resolution appeal to the district court of the county under the same regulations as in the case of opening streets and alleys, and the judgment of the court therein shall be final.

§ 14, art. 15, c.  
73, 1887.

**§ 2278. Records of city auditor prima facie evidence of matter therein contained.** It shall be the duty of the city auditor to keep in his office a record of all proceedings taken in the matter of opening, vacating, paving or otherwise improving streets and alleys, and after the confirmation of any report mentioned herein in such matters said auditor shall carefully record in such record all the proceedings taken in relation to the matters in said report, including all petitions, orders and appointments of commissioners, notices and proofs of publication thereof, and orders and resolutions of the council. And such record or a certified transcript thereof, or the original papers, petitions, proofs of publication, orders or resolutions on file in his office shall be prima facie evidence of the facts therein contained in any court or place in this state.

§ 15, art. 15, c.  
73, 1887.  
§ 2, c. 95, 1890.

**§ 2279. Resolution declaring work necessary.** When the city council shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain, or otherwise improve any street, alley, avenue, lane or highway, or other public grounds within the city limits or extend or improve any public system of water-works exclusively owned and operated by the city for which a special assessment is to be levied, as herein provided, the city council shall, by resolution, declare such work or improvement necessary to be done,

and such resolution shall be published for four consecutive weeks, at least once a week in the official newspaper of the city, and if a majority of the owners of the property liable to be assessed therefor, shall not within twenty days after the expiration of such publication file with the city auditor a written protest against such improvement, then the city council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the assessment as hereinafter provided, and all work done under this section shall be let by contract to the lowest responsible bidder therefor.

**§ 2280. Assessments for improvements, how made.** § 16, art. 15, c. 73, 1887.

Whenever any work or improvement mentioned in the preceding section shall have been determined upon and the contract let therefor, the city engineer shall forthwith calculate the amount to be assessed for such improvement for each lot or parcel of ground abutting or bounding upon such improvement. And in estimating the assessment he shall take the entire cost of such improvement and divide the same by the number of feet fronting or abutting upon the same, and the quotient shall be the sum to be assessed per front foot so bounding or abutting, and said estimate shall be filed with the city auditor and shall be presented to the city council for its approval at the first meeting held thereafter. The city auditor shall cause said estimate of the city engineer, together with a notice of the time and place when the council will meet to approve of the same, to be published in the official newspaper of the city for at least ten days prior to the meeting of the city council to approve the same.

**§ 2281. Action to avoid tax. Judgment.** § 1, c. 36, 1883.

Whenever any action or proceeding shall be commenced and maintained before any court to prevent or restrain the collection of any special assessment or part thereof, made or levied by the officers of any city, town or village, organized under and by virtue of a special act or charter, or under and by virtue of the general law of the state, for the improvement of its public streets by construction of sidewalks, grading or paving the same, or the construction of sewers or the extension of water mains, or for any other purpose authorized by law, and whenever any action or proceeding shall be commenced and maintained as aforesaid to vacate or set aside any sale of real estate under such special assessment or to cancel any tax certificate or deed given under such sale, and such assessment shall be held to be void by reason of noncompliance with this article, the court shall determine the true and just amount which the property attempted to be so assessed by said special assessment should pay to make the same uniform with other special assessments for the same purpose, and the amount of such assessment as the same appears on such list shall be prima facie evidence of such true and just amount and judgment must be rendered and given therefor against the party liable for such special assessment without regard to the proceedings had for the levy thereof, and such judgment shall be a lien upon the property upon which a special assessment should have been levied, and the lien of such judgment shall be enforced by the court in such action.

**§ 2282. Publication of notice.** § 2, c. 30, 1889.

In all actions and proceedings commenced to prevent or restrain the collection of any special assessment made by the proper municipal officers of any city, town or village where it shall appear upon trial that the person seeking to avoid the payment of such special assessment, knew that the improvements were being made under a special assessment, and that the abutting

property was charged with such improvements, and knowingly permitted such improvements to be made without commencing any proceedings to prevent the same, said assessment shall be legal and valid, notwithstanding the provisions of the charter or general law under which the city, town or village was incorporated required the publication of a resolution by the municipal authorities that they deemed the improvement necessary, and its publication in a newspaper a certain number of successive weeks has not been complied with; provided, it shall appear that said resolution was passed by said municipal authorities and published the number of times and in the newspaper required, on any day during successive calendar weeks.

§ 1. c. 31. 1889.

**§ 2283. Reassessment.** Whenever the city council of any city, incorporated under the general law, or by special act or charter, has heretofore, upon a petition of a majority of the abutting property owners upon any street made a special assessment for grading or paving the same and assessed the abutting property uniformly and in the same amount per front foot, and proceeded to pave or grade the street in accordance with the petition, and it appears that the ordinance or other proceedings in making the assessment were for any reason invalid, the city council is authorized and empowered to reassess all the real property abutting on such improvement, upon which the special assessment for the same has not been paid, upon the front foot plan in such sum as may be sufficient to pay its just proportion of the cost of such improvement.

§ 2. c. 31. 1889.

**§ 2284. Notice.** The city council shall by resolution declare the entire cost of the improvement for which all the abutting property was liable, with a description of the abutting property which such city council proposes to reassess for its proportion of the cost of such improvement, also the aggregate sum it proposes to assess against said property and the amount per front foot and shall state in said resolution when and where it will meet to hear any objections the abutting property owners may have to such reassessment, which resolution shall be published two successive weeks in some newspaper published in the city.

§ 3. c. 31. 1889.

**§ 2285. Mode of assessing.** At any time after the time fixed for hearing objections as provided in the last section, the city council shall by resolution proceed to reassess all the property abutting upon such improvement upon which the special assessment first made has not been paid, at its just and equal share of the cost of such improvement per front foot, and shall apportion and assess to each lot or parcel of land upon which such special assessment has not been paid its just proportion of the amount remaining unpaid per front foot, which assessment shall be and remain a lien upon the respective lots and parcels of land so assessed.

§ 4. c. 31. 1889.

**§ 2286. Publication of assessment roll.** After the assessment above provided for shall have been made and approved by the city council, the city clerk or auditor shall forthwith make an assessment roll describing the property so assessed, with the name of the owner if known, and the amount assessed to each lot or parcel of land as approved by the city council, and attach thereto a copy of the resolution of the city council approving the same, and certify that the same is correct, and shall file the same with the city treasurer for collection. The city treasurer shall forthwith publish said list three successive weeks, at least once in each week, in a newspaper published in said city, together with a notice that said assessments will become

delinquent if the same are not paid within thirty days after the date of the first publication, together with a notice that a penalty of ten per cent will be added thereto after they become delinquent.

§ 2287. **Interest and collection.** All such assessments from and after becoming delinquent shall draw interest at the same rate from the date of such delinquency, as delinquent taxes under the laws of the state, and the city treasurer shall proceed to collect the same, if he cannot make the tax by distress and sale of personal property, in the manner and as prescribed in sections 2295 to 2307. § 5, c. 31, 1889.

§ 2288. **Assessments, how paid. Penalty for nonpayment.** After the estimate provided in section 2280 shall have been so approved, the auditor shall forthwith make or cause to be made an assessment roll describing the property so assessed, with the name of the owner, if known, and the amount assessed to each lot, piece or parcel of ground as approved by the city council, and attach thereto a copy of the resolution of the city council approving the same, and certify that the same is correct, and shall file the same with the city treasurer for collection. The city treasurer shall publish said list three successive weeks at least once in each week in the official newspaper of the city, together with a notice that a penalty of ten per cent will be added thereto if the same is not paid within thirty days after the date of the first publication, stating the time when such penalty shall accrue. § 17, art. 15, c. 73, 1887.

§ 2289. **Grade of streets.** The city council may by ordinance establish the grade of all streets, alleys and sidewalks in the city, as the convenience of the inhabitants may require, and a record of the same shall be kept together with the profile thereof in the office of the city engineer; provided, that after the grade of any street has been established as provided in this section the city shall, if it changes the grade, be liable to the abutting property owners for any damage they may sustain by reason of any permanent improvements having been made by them to conform to the grade as first established. § 18, art. 15, c. 73, 1887. § 8, c. 33, 1889.

§ 2290. **Sidewalks, width of, etc.** The city council shall by ordinance prescribe the width of sidewalks, and may establish different widths in different locations, and determine the kind of material of which they shall be constructed, having regard to the business and amount of travel in the vicinity of each, and provide by ordinance for the letting of contracts for building the same. § 19, art. 15, c. 73, 1887.

§ 2291. **Sidewalks, how built and repaired.** Whenever the city council shall deem it necessary to construct, rebuild or repair, except as hereinafter provided, any sidewalk in the city, it shall notify each owner and occupant of any lot or parcel of land adjoining such sidewalk to construct, rebuild or repair the same at his own expense within a time designated, by the publication in the official paper of the city once in each week for two consecutive weeks of a notice to such owner or occupant, setting forth what work is to be done and the character of the same, and the time within which he is required to do the same. Such notice may be general as to the owner, but must be specific as to the description of the lot or parcel of ground in front of which such sidewalk is to be built. § 20, art. 15, c. 73, 1887.

§ 2292. **Council contract for sidewalks, when.** If such work is not done and the sidewalk not built, repaired or rebuilt in the manner and within the time prescribed in such notice, the city council may order the same to be done by such person as it may contract with and under the direction of the city engineer, at the expense of § 21, art. 15, c. 73, 1887.

the lot or parcel of land adjoining such sidewalk, and such expense shall be assessed upon each lot and parcel of land so chargeable, by the city engineer and returned by him to the city council, and the city auditor shall cause to be published said estimate of the city engineer, together with a notice of the time and place when the city council will meet to approve the same, by one publication in the official newspaper of the city for at least ten days prior to the meeting of the council to approve the same, and said assessment so made and returned, if approved by the council, shall be a lien upon such lots and parcels of land on and after such approval.

§ 22. art. 15, c. 73, 1887.

**§ 2293. Assessments for sidewalks. Penalty for non-payment.** Within ten days after such assessment shall have been so approved the city auditor shall file a certified copy of the same in the office of the city treasurer, and thereupon said assessment shall be due and payable to the city and if not paid within sixty days thereafter there shall be a penalty of ten per cent added thereto.

§ 23. art. 15, c. 73, 1887.

**§ 2294. Council may pay for repairing sidewalks, when.** The city council may provide by ordinance for repairing sidewalks where the amount of such repairs does not exceed the sum of ten dollars for fifty feet of such walk, and may pay for the same out of the general fund if deemed expedient.

§ 25. art. 15, c. 73, 1887.

**§ 2295. Sale of real property for special taxes.** There shall be a sale of all real property for all due and unpaid special assessments thereon for local improvements other than sewers, held on the first Monday in March and the first Monday in December of each year, and whenever any special assessment for such local improvements shall have been levied as provided in this chapter, and shall have been due and unpaid for sixty days preceding the first days of February and November of each year, the city treasurer shall give notice of such sale by publication in the official newspaper of the city, once in each of three consecutive weeks. The first publication shall not be less than twenty-three, nor more than thirty days prior to the day of such sale. Such notice shall state when and for what purpose such assessment was made, and shall contain a list of the property upon which such assessment is unpaid, with the amount of such assessment including penalty and costs of advertising, which costs shall be ten cents for each tract or parcel of land, and also the day and place of sale.

§ 26. art. 15, c. 73, 1887.

**§ 2296. Treasurer to adjourn sale, when.** At ten o'clock in the forenoon of the day mentioned in such notice of sale the city treasurer or his deputy shall attend at the place designated and offer for sale each piece or parcel of property contained in the advertised list upon which the assessment shall remain due and unpaid, and he may adjourn the sale from day to day until the property in such list is all sold or offered for sale; provided, that such adjournment shall not extend beyond a period of three days from the day named in the notice.

§ 27. art. 15, c. 73, 1887.

**§ 2297. Highest bidder. What part of property sold.** The person offering to pay the amount due on any piece or parcel of land or city lot for the smallest portion of the same shall be considered the highest bidder, and when such property is unplatted such portion shall be taken from the southeast corner thereof in form as nearly square as possible, and if a city lot it shall be so many feet extending the full depth of the lots and taken from the north or east side of such lot.

§ 2298. **Failure of bidder to pay.** Should any person bidding fail forthwith to pay the amount due, the city treasurer may again offer the same for sale at any time before the close of the sale, or he may recover the amount of such bid by a civil action brought in the name of the city, or sell the same at private sale as hereinafter provided. § 28, art. 15, c. 73, 1887.

§ 2299. **Record and report of sale.** The city treasurer shall keep a record of such sale in a book for that purpose, showing the description of each piece or parcel sold or offered for sale, to whom sold, date of sale, amount sold for, if sold, and if not sold it shall be so stated and the reason, and within ten days after the close of such sale the city treasurer shall file in the office of the city auditor a return of such sale showing the land or lots sold, the names of the purchasers and the sums paid by them, and also a copy of the notice of sale, with a certificate of advertisement verified by an affidavit, and such certificate shall be evidence of the regularity of the proceedings. § 29, art. 15, c. 73, 1887.

§ 2300. **Certificate of purchase. Fee.** The purchaser of any lot or tract of land sold by the city treasurer for such special assessment shall be entitled to a certificate of purchase describing the lot or tract so purchased, the sum paid, and the time when the purchaser will be entitled to a deed, which certificate shall be assignable and the assignment must be acknowledged before some officer having authority to take acknowledgments of deeds. Such certificate shall be signed by the treasurer in his official capacity and shall be presumptive evidence of the regularity of all prior proceedings, and the treasurer may demand and receive the sum of fifty cents for each certificate so issued. § 30, art. 15, c. 73, 1887.

§ 2301. **Private sale. Certificate.** After the sale shall have closed and after the treasurer shall have made his return thereof to the city auditor as hereinbefore provided, if any tract, parcel or lot of land remains unsold for want of bidders the sum for which such property was offered for sale shall draw interest at the rate of eighteen per cent per annum until such property is sold or redeemed; and the treasurer is authorized to sell the same at private sale to any person who will pay the amount of the assessment, penalty and costs, with interest thereon from the time the same was offered for sale to the time of the purchase, and to deliver to such purchaser a certificate as provided in section 2300, and shall make out duplicate certificates for the amount of such purchase, one of which shall be deposited with the city auditor and the other delivered to the purchaser, with the additional statement inserted in said certificate that such land or lots were offered at public sale for such assessment but not sold for want of bidders, and he shall indorse on the certificate "sold for special assessment at private sale." § 31, art. 15, c. 73, 1887.

§ 2302. **Tax deed. Form of. Redemption.** At the expiration of two years after the date of such sale as fixed in the notice thereof, the purchaser or assignee shall be entitled to a deed of the property so sold, which deed shall be in form substantially as follows: § 32, art. 15, c. 73, 1887.

TAX DEED.

Whereas, A. B. did on the...day of....., A. D. 189..., produce to the undersigned, C. D., treasurer of the city of....., in the county of....., and the state of North Dakota, a certificate of purchase in writing, bearing date the...day of....., 189...,

signed by.....who at the last mentioned date was treasurer of said city, from which it appears that....did on the....day of..... 189.., purchase at public auction (or at private sale) at the office of said treasurer in the said city the tract, parcel or lot of land lastly in this indenture described, and which said lot was sold to.....for the sum of.....dollars, being the amount due on the following tract or lot of land returned delinquent for the nonpayment of an assessment for local improvements, made on the....day of....., 189.., including penalty, costs and charges, to-wit: (here insert the particular lot of land offered for sale) and it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the lands therein described having now expired, and the same not having been redeemed as provided by law, and the said A. B. having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for the special assessment, penalty and costs as above specified, and it appearing that said lands were legally liable for such assessments and that such assessment was duly made and charged to such land on the....day of....., 189.., and that said lands had been legally advertised for sale for such assessments and were sold on the....day of....., 189..; now, therefore, this indenture made this....day of....., 189.., between the city of.....county of.....and state of North Dakota, by.....treasurer of said city, of the first part, and the said A. B. of the second part, witnesseth, that the said party of the first part for and in consideration of the premises and the sum of one dollar in hand paid has granted, bargained and sold, and by these presents does grant, bargain, sell and convey unto the said party of the second part and his assigns forever, the lot, tract or parcel of land mentioned in said certificate and described as follows, to-wit: (describe the land) to have and to hold said mentioned lot, tract or parcel of land with the appurtenances thereto belonging, to the said party of the second part.... heirs and assigns forever, in as full and ample a manner as the said treasurer of said city is empowered by law to sell the same. In testimony whereof the said treasurer of said city of.....has hereunto set his hand and seal on the day and year aforesaid.

The owner or occupant or any other person may redeem the same at any time within the two years mentioned in this section, or before the tax deed is issued therefor, by paying the amount such land sold for with costs and interest on the same at the rate of twenty-four per cent per annum from the date of such sale; provided, that the lands or lots belonging to minors or any interest they may have in any land or lots sold for such taxes may be redeemed in the same manner at any time before such minor becomes of age and during one year thereafter.

§ 33, art. 15. c.  
73, 1887.

**§ 2303. Redemption by part owner.** Any person claiming a portion of any piece or parcel of land or lot sold for such special assessment may redeem the same by paying the proportion so claimed pro rata, according to the number of feet bounding or abutting on said improvement, or if his interest is undivided he shall pay the proportion that his interest bears to the whole amount, and the conveyance shall be made for the part or proportion unredeemed.

§ 34, art. 15. c.  
73, 1887.

**§ 2304. Certificate surrendered when deed issues. Record.** Upon presentation and surrender of the certificate of sale after



the time of redemption shall have expired, the treasurer shall issue to the owner thereof a deed in the name of the city as provided in section 2302, which deed shall be executed under his hand and the execution shall be attested by the city auditor under the seal of the city, and such deed shall vest in the grantee an absolute estate in fee simple in such land, subject however to all the claims which the state, county or city may have thereon for taxes, and shall be presumptive evidence of the truth of the facts therein recited, and prima facie evidence of the regularity of all the proceedings; which deed shall be acknowledged by the treasurer before some person authorized by law to take acknowledgments of deeds; and the treasurer shall make a record of the date of said deed and to whom made, and shall cancel the certificate and file the same with the city auditor.

**§ 2305. Error not to invalidate deed.** Any error in describing any lot or parcel of land or any omission of any tract so assessed shall not invalidate the sale as to the lots or parcels of land correctly described, but any tract or parcel so omitted or erroneously described may be advertised and sold at the next succeeding sale.

§ 35, art. 15, c. 73, 1887.

**§ 2306. Sale not invalidated, when. No exemptions.** The sale of land or city lots or any real property for special assessment shall not be invalid on account of such real property having been listed or charged on the assessment list or advertised in any other name than that of the rightful owner and no real property within the limits of the city shall be exempt from special assessment for street, sidewalk or sewer purposes.

§ 36, art. 15, c. 73, 1887.

**§ 2307. Action for possession limited.** No action shall be commenced by the former owner of lands or lots or by any person claiming under him to recover possession of such lands or lots which have been sold and conveyed by deed for nonpayment of any special assessment, or to avoid such deed, unless such action shall be commenced within three years after the recording of such deed; and not until the amount of such special assessment, interest and penalties, costs and expenses and all taxes or special assessments paid on such property shall be paid or tendered by the parties commencing such action.

§ 37, art. 15, c. 73, 1887.

**§ 2308. Council may issue bonds. Limitation.** For the purpose of enforcing the provisions of this article, the city council shall have power and authority to issue the bonds of the city to an amount not exceeding one-half of one per cent of the valuation of all property in the city, as may appear by the last tax list preceding such issue, and such issue of bonds shall not be increased until the valuation shall have increased at least one hundred thousand dollars over and above the valuation upon which the next preceding issue shall have been based.

§ 38, art. 15, c. 73, 1887.

**§ 2309. Internal improvement bonds.** Such bonds shall be issued in amounts of not less than five hundred dollars each, with interest coupons attached, as directed by the city council, and shall draw interest at a rate not exceeding seven per cent per annum, payable annually or semiannually as may be determined by the city council, and shall be known as "internal improvement bonds," and payable, principal and interest, either in New York city or the city issuing the same. Said bonds shall become due and payable in not less than twenty years from the date of issuance thereof, and shall not be sold or negotiated at a less rate than ninety-five per cent of their face value.

§ 39, art. 15, c. 73, 1887.

§ 40, art. 15, c. 73, 1887. **§ 2310. Proceeds, how disposed of.** The proceeds of the sale of said bonds shall be kept as a special fund separate and apart from the other funds of the city and used solely and exclusively for the purpose of paying for work done and material furnished under the provisions of this article, and in no case shall a greater amount of this fund be used for such purposes than the amount of the assessment as approved by the city council, nor until such assessment has been fixed and approved; and all such assessments, penalties and interest when collected shall be credited to such fund and remain a part of the same.

§ 41, art. 15, c. 73, 1887. **§ 2311. Mayor and auditor to sign bonds and contracts.** All bonds of the city and all contracts and conveyances, except tax deeds, shall be signed by the mayor and countersigned by the auditor, who shall affix the seal of the city thereto and keep an accurate record of all bonds issued, in a book to be provided for that purpose.

§ 1, c. 43, 1891. **§ 2312. Assessment for waterworks.** The city council of any city owning and operating a system of public waterworks and hydrants for the purpose of supplying its inhabitants with water and with fire protection, for the purpose of equalizing the burden of expense of operating such system, shall have the power to make an annual assessment for each fiscal year, for not to exceed one-half of the expense of operating such system, on the property abutting or bounding upon the streets and avenues of the city in which the mains of said system are laid and operated, and to collect such assessment in the manner provided in this article for the collection of assessments for other local improvements; and to fix, determine and collect penalties for the nonpayment of any such special assessments; provided, that nothing herein contained shall be construed as making it obligatory upon the city council to raise any portion of the funds necessary for operating such system, by special assessment; and provided, further, that any portion less than one-half of the sum needed for operating said system may at the discretion of the city council be raised by such assessment; and such assessment in all cases shall be exclusive and independent of water rates or rents collected from water consumers.

§ 1, c. 43, 1891. **§ 2313. Assessment, how levied.** Whenever the city council shall deem it necessary to levy the assessment authorized by the last section it shall pass a resolution to that effect, and shall estimate the cost of operating the water system for the next fiscal year, and shall specify in said resolution the portion of the sum so estimated for which a special assessment is to be levied.

§ 1, c. 43, 1891. **§ 2314. Benefits, how determined.** The city auditor, the city treasurer and the city assessor shall constitute a board to calculate the amount of the sum so determined upon by the city council to be assessed on each lot or parcel of ground abutting or bounding upon the streets or avenues of the city in which the mains of the water system are laid and operated, which assessment shall be made in proportion to the benefits of such water system and fire protection to the respective lots or parcels of ground situate as aforesaid, and said estimate shall be filed with the city auditor and shall be presented to the city council for its approval at the first meeting held thereafter, and the city auditor shall cause notice of the time and place when and where the city council will meet to approve the same, to be published in the official newspaper of the city for at least ten days prior to the meeting of the city council to approve the same, at which meeting

any person complaining of such assessment shall be heard and any errors in the same corrected. After said assessment shall be approved by the city council, it shall be proceeded with by the proper officers in the same manner as is provided in this article for assessments for other local improvements.

#### ARTICLE 18.—SEWERAGE.

§ 2315. **City council to establish and maintain.** The city council shall have power to establish and maintain at any time a general system of sewerage for said city in such manner and under such regulations as the city council shall deem expedient and to alter or change the same from time to time as the council shall deem proper; provided, that no action shall be taken for the establishment of such system of sewerage except upon the affirmative vote of at least two-thirds of the members of the city council; provided, further, that whenever a majority of the residents on any street or part of street owning land abutting thereon shall petition the city council for the construction of a sewer on such street or part of street as a part of or to connect with such system of sewerage, all measures necessary for the construction of such sewer may be taken by a vote of the majority of the city council.

§ 1, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

§ 2316. **Construction, alteration and repairs.** The cost of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to shall be estimated by the city engineer of the city or such other competent engineer as may be selected by the city council for such purpose, who shall draw plans and specifications therefor; and such estimate together with such plans and specifications shall be filed with the city auditor before any bids for work thereunder are advertised for, and shall remain on file in his office and shall be open to the inspection of all persons until after the contract for such work shall be let. The city engineer shall retain a copy of such plans and specifications in his office and shall furnish to any person applying therefor copies of the same, and may charge and receive for such copies at the rate of one dollar an hour for the time necessarily employed in making the same.

§ 2, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

§ 2317. **Proposals for construction.** The city council shall then cause proposals for said work to be advertised for in the official paper of such city, once in each week for three consecutive weeks, which advertisement shall specify the work to be done and shall call for bids upon a basis of cash payment for said work. Bids for such work shall be forwarded to the city auditor of such city securely sealed so as to prevent their being opened without detection and shall be indorsed upon the outside thereof with a statement as to what work such proposals are for. Each bid shall be accompanied by a bond running to such city in the penal sum of at least fifty per cent of the amount of the bid, which bond shall be executed by the bidder as principal and by two or more good and sufficient sureties who shall justify in the manner required in arrest and bail, which bond shall be conditioned that the bidder will well and faithfully perform the work bid for pursuant to the plans and specifications therefor, in case such contract is awarded to him, and that in case of default on the part of the bidder to perform such work as provided in his contract, or in case of his failing to enter into such contract in case the same shall be awarded to him under his bid therefor, that the sum named

§ 3, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

in said bond shall be taken and held to be fixed and liquidated damages in favor of said city, and that the full amount thereof may be recovered from said bidder and his sureties in an action by the city against them on said bond. Such bids shall be opened by the city council at the expiration of the time limited in said notice for receiving the same, or at such other time as the city council may appoint therefor.

§ 4, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

**§ 2318. Contracts, how made.** The city council shall have the right to reject any and all bids for such work if in its opinion the interests of the city will be best subserved by so doing; but if all such bids are not rejected the contract shall then be awarded to the lowest responsible bidder upon the basis of cash payment therefor; provided, that such bidder shall have complied with the foregoing requirements and shall have guaranteed to the satisfaction of the city council the proper and speedy completion of said work. Such contract shall be entered into in the name of the city and shall be executed on the part of the city by the mayor thereof and countersigned by the city auditor with the corporate seal of the city affixed and an attested copy thereof shall be filed in the office of the city auditor. No such contract, except for the construction of a sewer upon petition as provided in section 2315, shall be awarded except upon a two-thirds vote of all the members of the city council, and there shall be reserved in each contract so let the right of the city council in case of the improper construction of such work to suspend work thereon at any time and to relet the contract therefor or to order a reconstruction thereof, or of any part thereof improperly done.

§ 5, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

**§ 2319. Part payments. Amount reserved.** In case the contractor to whom any such contract shall be let shall properly perform the work therein designated the city council may, from time to time in its discretion as the work progresses, pay to such contractor upon an estimate made by the city engineer of the amount already earned thereunder sixty per cent of the amount shown by such estimate to have been so earned.

§ 6, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

**§ 2320. Method of payment. Bonds.** For the purpose of paying for the construction of such sewers the city council shall provide as follows:

1. The city council shall forthwith upon the letting of any contract under the provisions hereof create, by appointment of three persons from among the citizens of such city, a "special sewerage assessment committee," each member of which shall file with the city auditor a written acceptance of such appointment and take and subscribe an oath faithfully and impartially to discharge the duties of his position as a member of such committee, which oath shall be filed with the city auditor, and one of such persons shall be designated by the city council as the chairman of such committee. The city council may from time to time as occasion may require make new appointments to such committee to fill any vacancy arising therein from death or other cause, and in case any person so appointed neglects or refuses to act, to appoint another in his place.

2. It shall be the duty of such committee personally to inspect any and all lots and parcels of land fronting or abutting upon the work contracted for or benefited thereby as hereinafter set forth and thereupon assess against all such lots and parcels of land, which will in the opinion of such committee be specially benefited by the construction of such system of sewerage, a special assessment in a sum

not exceeding such benefits. Whenever such assessment is made and completed as to all the lots, parts of lots or parcels of land to be benefited by the work under any one contract, the committee shall make or cause to be made a complete list thereof, setting forth the several tracts so assessed and the amount assessed against each, and cause the same to be published once in each week for three consecutive weeks in the official newspaper of the city, together with a notice of the time and place, when and where such committee will meet to hear objections which may be made to any such assessment by any owner or occupant of a tract so assessed, or other person interested in such assessment, or his agent or attorney, and thereupon alter or affirm the same as may in the opinion of the committee be just in the premises. The committee shall then deposit such assessment list with the city auditor who shall forthwith cause the same to be again published once in each week for three consecutive weeks in the official newspaper of the city, with a notice to the persons interested that at the next regular meeting of the city council after the expiration of the time of publication of such notice, giving the date thereof, appeals from the decision of such committee in relation thereto will be heard and determined by the city council; provided, that for any sewer constructed upon petition as provided in section 2315 only the lots abutting on that portion of the street in which such sewer is to be constructed shall be assessed therefor.

3. At such meeting of the city council any person aggrieved by the determination of such committee in regard to any such assessment, and who appeared in person or by his agent or attorney before such committee as hereinbefore provided, if a resident of the city, and all nonresident owners of any property so assessed, whether they appeared before such committee or not, may appear before the city council and present their reasons why the action of such committee should not be affirmed by the city council, and the city council shall then hear and determine such appeals and objections, if any, and may alter or affirm the action of such committee in relation thereto as the city council may deem just in the premises; and shall thereupon cause such list so altered to conform to its action, if any such alteration is made, to be certified as correct by the city auditor and filed in his office. The city auditor in case no bonds shall have been issued to provide funds for the payment of the construction of said system of sewerage or of said sewers shall, at the time he certifies to the county auditor the amount of city taxes to be levied for the current year, also certify to such auditor a list of the lots or tracts of lands assessed for sewer purposes under the provisions of this article, with the whole amount of such assessment, and the county auditor shall extend the same upon the tax roll for the current year and it shall be collected and paid over in the same manner as other city taxes; and when so paid over shall be credited by the city treasurer and auditor to the sewer fund and shall be kept separate and apart from all other funds, and shall be applied to no other purpose whatever than the payment for the construction of the system of sewerage or sewers for which the same was assessed and the city council may direct warrants for such payment to be drawn on such fund to the amount of such assessments before the same are actually collected. In case bonds shall have been issued for the purpose of raising funds to pay for the establishment, construction and maintenance of such system of sewerage or of such sewers, the city auditor shall divide

the total amount of such assessment into as many parts as said bonds have years to run, and shall annually at the time he certifies to the county auditor of such county the amount of city taxes to be levied for the current year, also certify to such auditor a list of the lots or tracts of land assessed for such system of sewerage or such sewers for the payment of which such bonds were issued, with the amount of the part of such assessment to be collected for the current year, and the county auditor shall extend the same upon the tax roll for the current year and collect and pay the same over in the same manner as city taxes.

4. The said committee and the city council upon meeting at the time specified in the printed notices hereinbefore set forth, may adjourn from day to day but not otherwise, until the work of the revision of such list and the determination of said appeals are by them respectively completed, and the chairman of such committee and the presiding officer of the city council shall have power to administer oaths to such witnesses as may be brought before them and the presiding officer of the city council may issue subpoenas for witnesses to testify on behalf of the city, but no appeal shall lie from the decision of the city council to any other tribunal and no objection to any such assessment shall be considered by the city council unless the same objection shall have been first raised before said committee, except in case of nonresidents as hereinbefore provided; provided, however, that this restriction shall not apply to the correction of obvious mistakes or clerical errors.

§ 7, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

**§ 2321. Special assessment committee. Appointment. Duties.** The city council for the purpose of raising funds to pay for the establishment, construction and maintenance of such system of sewerage or of such sewers, and for the purpose of constructing or purchasing waterworks and for furnishing a supply of water to the inhabitants of such city, shall have power to issue the bonds of the city to an amount not exceeding four per cent upon the assessed value of the taxable property of such city, as determined by the last preceding assessment, payable in not to exceed twenty years from the date thereof, drawing interest semiannually at the rate of not exceeding seven per cent per annum, payable either in New York City or in the city issuing the same, and which shall be signed and executed as provided in article 17 of this chapter; provided, that at no time shall there be bonds outstanding or unpaid in excess of four per cent of the assessed valuation of the taxable property of such city as determined by the last preceding assessment, and such bonds shall not be negotiated at less than par value.

§ 7, art. 16, c. 73,  
1887.  
§ 1, c. 36, 1893.

**§ 2322. Levy and collection of tax.** Whenever any such bonds have been issued, the city council shall in each year at the time required by law for the levy of other taxes, levy an annual tax upon all property, real and personal, within the city, upon the basis of the last general assessment of the city, in such amount as may be necessary, together with the proceeds of such special assessment, to provide for the payment of the annual interest on said bonds and to create a sinking fund for the payment of the principal thereof when due, and such tax shall be levied as other city taxes are levied and shall be certified to the county auditor of the county with and in the same manner as other city taxes and shall be collected, enforced and paid over in like manner.

§ 2323. **Sinking fund. Method of investment.** Whenever such bonds shall have been issued the proceeds of the special assessment for the sewers for which such bonds are issued and of such annual tax when paid over to the city treasurer shall be credited by such treasurer and the city auditor to the sewer bond sinking fund. § 7, art. 16, c. 73, 1887.  
§ 1, c. 36, 1893.

§ 2324. **Investment of funds.** Whenever there shall be one thousand dollars or more of such funds in the hands of the city treasurer over and above the amount which shall then be needed to pay the interest on said bonds for the then current year, the city council may by a two-thirds vote thereof authorize the investment of the amount in excess of that required for the payment of interest, in such securities as will in the opinion of the city council be safe and readily convertible into cash, and as will secure to said city on the amount to be invested, interest at the rate of not less than five per cent per annum; or by a like vote may authorize the negotiation and redemption before maturity of any of such outstanding bonds on such terms as will in the opinion of the city council best subserve the interests of the city. § 7, art. 16, c. 73, 1887.  
§ 1, c. 36, 1893.

§ 2325. **Payment of interest.** Out of the revenue thus to be derived the interest upon said bonds shall be promptly paid when due and the principal thereof at maturity. § 8, art. 16, c. 73, 1887.  
§ 1, c. 36, 1893.

§ 2326. **Sewerage, where emptied.** It shall be lawful for any city in this state to empty its sewerage into any river; provided, that where a dam is located within the corporate limits of any city, the sewerage shall in all such cases be emptied below such dam. § 1, c. 37, 1893.

ARTICLE 19. — CORPORATE LIMITS.

§ 2327. **Power to extend city limits.** Any city in this state that shall become incorporated under this chapter may extend its corporate limits in the manner hereinafter provided. § 1, art. 17, c. 73, 1887.

§ 2328. **How.** When a majority of the property owners adjacent to the corporate limits of any city in this state petition the mayor and city council to have any of their property included within the corporate limits of said city, it shall be the duty of the city council to publish such petition in the official paper of the city for four consecutive weeks, and unless a written protest signed by at least twenty-five property owners of said city is filed with the mayor opposing such proposed annexation, within ten days after the publication of said petition, such proposed annexation shall be included in and become a part of said city. § 2, art. 17, c. 73, 1887.

§ 2329. **Plat of city to be recorded.** The mayor of any city incorporated under this chapter shall cause to be filed in the office of the register of deeds in the county wherein said city is located a plat showing the corporate limits and boundaries of his city at the time of its incorporation under this chapter, and any change in said city limits made subsequent to its incorporation under this chapter. § 3, art. 17, c. 73, 1887.

§ 2330. **Extension of limits.** Any city in the state having not less than three thousand inhabitants may so extend its boundaries as to increase the territory within the corporate limits, not to exceed one-fourth its present area by a resolution of the city council, passed by two-thirds of the entire council elect, particularly describing the land proposed to be included within the city limits, setting forth the boundaries and describing the lands platted by blocks and lots. § 1, c. 32, 1889.

§ 2. c. 32, 1889. **§ 2331. Publication of resolution.** The resolution of the city council shall be published in the official newspaper of the city for three successive weeks, and unless a written protest signed by a majority of the property owners of said proposed extension is filed with the city clerk or auditor within ten days after the last publication of such resolution, the territory described in the resolution shall be included within and become a part of said city.

§ 3. c. 32, 1889. **§ 2332. Plat filed.** When the city limits of any city have been extended, as provided by the last two sections, the mayor shall forthwith cause to be filed in the office of the register of deeds in the county wherein said city is located a plat showing the corporate limits and boundaries of the city.

ARTICLE 20. — MISCELLANEOUS.

§ 1. art. 18, c. 73, 1887. **§ 2333. Power to enforce charter by ordinance.** When by this chapter the power is conferred upon the city council to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the city council may provide by ordinance the details necessary for the full exercise of such power.

§ 2. art. 18, c. 73, 1887. **§ 2334. Power of council to define additional duties for city officers.** The duties, powers and privileges of all officers of every character in any way connected with the city government, not herein defined, shall be defined by the city council and the defining by this chapter of the duties of the city officers shall not preclude the city council from defining by ordinance further and additional duties to be performed by any such officer.

§ 3. art. 18, c. 73, 1887. **§ 2335. Property of city exempt from taxation and sale on execution.** Lands, houses, moneys, debts due the city and property and assets of every kind and description belonging to the city shall be exempt from taxation and sale on execution.

§ 4. art. 18, c. 73, 1887. **§ 2336. Fines, penalties and forfeitures.** All fines, penalties and forfeitures collected for offenses against the ordinances of the city and all fines, penalties and forfeitures collected within the city for misdemeanors against the laws of the state, shall be paid to the officer entitled by law to receive the same.

§ 5. art. 18, c. 73, 1887. **§ 2337. Penalty for being interested in contract.** Any officer of the city or member of the city council who shall by himself or agent become a party to or in any way interested in any contract work or letting under the authority of the city, or who shall either directly or indirectly by himself or other party accept or receive any valuable consideration or promise for his influence or vote, shall be fined in any sum not exceeding one thousand dollars, one-half of which shall go to the informer and the balance be paid into the city treasury by the officer collecting or receiving the same, and the said contract shall be null and void.

ARTICLE 21. — HOW TOWNS AND VILLAGES MAY BECOME CITIES.

§ 1. art. 19, c. 73, 1887.  
 § 1. c. 66, 1889, am'd. **§ 2338. Towns may become cities, when.** Any incorporated town or village in this state, having a population of not less than five hundred inhabitants, may become incorporated as a city in like manner as in this chapter provided. But in all such cases the president and trustees, and all other officers of such town or village



shall respectively perform the same duties relative to such change of organization as is required to be performed by the mayor, council and other officers of cities until the succeeding city election.

**§ 2339. Petition. Election. Return.** Whenever any area of contiguous territory in this state not exceeding four square miles shall have residing thereon a population of not less than five hundred inhabitants, which shall not already be included within any incorporated town or city, the same may become incorporated as a city in manner following: Any fifty legal voters thereof may file in the office of the county auditor of the county in which such inhabitants reside a petition addressed to the board of commissioners of such county, and if the territory described in said petition shall be in more than one county then the petition shall be addressed to the board of commissioners of the county where the greater part of such territory is situated, which petition shall define the boundaries of such proposed city and state the number of inhabitants residing within such limits, and also state the name of such proposed city, and shall contain a prayer that the question be submitted to the legal voters residing within such limits whether they will organize as a city under this chapter. It shall be the duty of the board to fix a time and place within the boundaries of such proposed city at which an election may be held to determine such question; and such commissioners shall name the persons to act as judges in holding such election and shall give notice thereof by causing ten notices to be posted in public places within such proposed city, and section 2110 shall be applicable to such election; provided, that the returns of such election shall be made to and canvassed by the board of county commissioners instead of the city council, and the result of such election shall be entered upon the records of such board of county commissioners. If a majority of the votes cast at such election shall be "for city organization under general law," the inhabitants of such territory described in such petition shall be deemed to be incorporated as a city under this chapter, and with the name stated in the petition.

§ 2, art. 19. c. 73.  
1887.

**§ 2340. Election of officers.** It shall be the duty of the president and board of trustees of any town or village which shall have voted to change its organization to a city under this chapter, to call and give notice of an election to elect city officers, and to designate the time and place or places of holding the same. Such notice shall be published in a newspaper if there is one within the town or village, or posted in ten public places for at least twenty days before such election. Such president and trustees shall appoint the judges to hold such election, canvass returns thereof, and cause the result to be entered upon the records of the town or village; and the provisions of this chapter relative to the election of city officers shall be applicable thereto; but at such election aldermen may be elected on a general ticket.

§ 3, art. 19. c. 73.  
1887.

**§ 2341. When county commissioners to give notice of election, etc.** In case of cities organizing under section 2339 the county commissioners shall call and give notice of the election and perform the same duties relative thereto as is above required to be performed by the president and trustees of such towns and villages.

§ 4, art. 19. c. 73,  
1887.  
am'd

**§ 2342. Term of first officers.** The city officers elected under either of the preceding sections shall hold their respective offices until the succeeding regular election for such officers respectively, and until their successors are elected and qualified as provided in this chapter.

§ 5, art. 19. c. 73.  
1887.

§ 6, art. 19, c. 73,  
1887.

§ 2343. **Special charter null and void, when.** Whenever any city in this state shall organize under this chapter any special charter that may have been granted to such city shall be null and void.

## CHAPTER 29.

### VILLAGES.

#### ARTICLE 1.—INCORPORATION OF VILLAGES.

§ 1, c. 24, Pol. C.  
am'd.

§ 2344. **Townsite to be surveyed and platted.** Persons intending to make application for the incorporation of a village as hereinafter provided shall cause an accurate survey and map to be made of the territory intended to be embraced within the limits of such village; such survey shall be made by a practical surveyor, and show the courses and distances of the boundaries thereof, and the quantity of land contained therein, the accuracy of which survey and map shall be verified by the affidavit of such surveyor written thereon or annexed thereto.

§ 2, c. 24, Pol. C.

§ 2345. **Census to be taken.** Such persons shall cause an accurate census to be taken of the resident population of such territory as it may be on some day not more than thirty days previous to the time of presenting such application to the board of county commissioners as hereinafter provided; which census shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to every such family; and it shall be verified by the affidavit of the person taking the same.

§ 3, c. 24, Pol. C.

§ 2346. **Survey, map and census subject to examination.** Such survey, map and census when completed and verified as aforesaid shall be left at some convenient place within said territory for examination by those having an interest in such application, for a period of not less than thirty days.

§ 4, c. 24, Pol. C.

§ 2347. **Petition for incorporation.** Such application shall be by petition subscribed by the applicants, and also by not less than one-third of the whole number of qualified voters residing within such territory; and such petition shall set forth the boundaries thereof, the quantity of land embraced according to the survey, and the resident population therein contained according to such census; and such petition shall have attached thereto or written thereupon affidavits verifying the facts alleged therein, and it shall be presented at the time indicated in the notice of such application or as soon thereafter as the board can receive and consider the same.

§ 5, c. 24, Pol. C.  
am'd.

§ 2348. **Commissioners to make order of incorporation.** The board of county commissioners in hearing such application shall first require proof either by affidavit or by oral examination of witnesses before them that the said survey, map and census were subject to examination in the manner and for the period required by section 2346; and if the board is satisfied that the requirements of this chapter have been fully complied with, it shall then make an order declaring that such territory shall with the assent of the qualified voters thereof as hereinafter provided be an incorporated village by

the name specified in the application aforesaid, which name shall be different from that of every other town in this state, and it shall also include in such order a notice for a meeting of the qualified voters resident in said proposed village at a convenient place therein to be by them named, on some day within one month therefrom, to determine whether such territory shall be an incorporated village.

§ 2349. **Notice of meeting to be given.** The board shall cause ten days' notice to be given of such meeting by publication in a newspaper if one is published in the county, and by posting up not less than ten copies of such notice in the most public places in said proposed incorporated village. § 6. c. 24, Pol. C. am'd.

§ 2350. **Opening of polls.** At the meeting of the qualified voters as herein provided the polls shall be opened at nine o'clock in the forenoon of such day and shall be kept open until four o'clock in the afternoon, when they shall be closed. § 7. c. 24, Pol. C.

§ 2351. **Election of inspectors.** The voters at such meeting shall first proceed to the election of three inspectors who, after being duly chosen and qualified and one of their number elected clerk, shall without delay proclaim to the meeting that the polls are now opened and that they are ready to receive the ballots of the voters. § 8. c. 24, Pol. C.

§ 2352. **Manner of voting.** The qualified voters of said proposed incorporated village shall vote by ballot, having thereon the words "for incorporation, yes," or the words "for incorporation, no;" and if a majority of the votes given at such meeting shall have thereon the word "no," the voters of such proposed village shall be deemed not to have assented to the incorporation thereof as a village and no further proceedings shall be had in reference thereto; but if a majority of such ballots shall have thereon the word "yes," such territory shall from that time be deemed an incorporated village and shall thereafter, for all purposes except the payment of any prior bonded indebtedness, be separate and disconnected from any civil township of which it theretofore formed a part and to have continuance thereafter by the name and style specified in the order made by the board of county commissioners as hereinbefore provided; and the inspectors of such election shall make a statement showing the whole number of ballots cast at such election, the number having the word "yes" thereon, and the number having the word "no" thereon, which statement shall be verified by the affidavit of such inspectors and shall be returned to the board of county commissioners at its next session, which, if satisfied of the legality of such election, shall make an order declaring that said village has been incorporated by the name adopted, which order shall be conclusive of such incorporation in all suits by or against such corporation; and the existence of such corporation by the name and style aforesaid shall thereafter be judicially taken notice of in all courts in this state without specially pleading or alleging the same. §§ 9. c. 24, Pol. C. 1. c. 129, 1893. am'd.

§ 2353. **Division of village into districts.** Such inspectors when they shall have returned the statement as aforesaid shall next proceed to divide said village into not less than three nor more than seven districts, having due regard to the equitable apportionment of the population among the same, and the convenience and contiguity of such districts. § 10. c. 24, Pol. C. am'd.

§ 2354. **Notice of election.** They shall also give ten days' notice by publication in a newspaper if one is published in such village and by posting such notices in five public places therein, of an § 11. c. 24, Pol. C. am'd.

election to be held in such village for the purpose of electing officers thereof, naming the place therein and the day upon which the same will be held, but the day named shall be within twenty days from the posting of such notices. Notice of each subsequent election shall be given in like manner by the clerk of said village.

§ 12, c.24, Pol.C.  
am'd.

§ 2355. **Annual election, when held.** An election for officers of said village after the first election shall be held annually on the first Monday of May of each year, and at every such election the preceding board of trustees or any of them shall act as the inspectors thereof.

§ 13, c.24, Pol.C.  
am'd.

§ 2356. **How long polls shall remain open.** At all elections in said village the polls shall be open at nine o'clock in the forenoon and shall not be finally closed until four o'clock in the afternoon of said day.

§ 14, c.24, Pol.C.

§ 2357. **Inspectors to be judges of election.** Such inspectors shall preside at such first election and be the inspectors thereof, and in the receiving and canvassing of votes shall be governed by the laws then existing, so far as they are applicable, for the election of county officers.

§ 15, c.24, Pol.C.  
am'd.

§ 2358. **What village officers to be elected.** There shall be elected at the first and at each subsequent election one trustee from each district in said village, and also a clerk, assessor, treasurer, marshal and justice of the peace, who shall respectively hold their offices until the first Monday in May next following or until their successors are elected and qualified; provided, however, that nothing herein contained shall prevent the respective offices of clerk, treasurer, assessor and marshal from being held by one and the same person.

§ 16, c.24, Pol.C.  
am'd.

§ 2359. **Highest number of votes elects. Duty of inspectors.** The persons receiving the highest number of votes for the offices of trustee shall be declared elected as such trustees, and the persons receiving the highest number of votes respectively for clerk, marshal, assessor, treasurer and justice of the peace, as designated by the ballot for such office, shall be declared elected; and if two or more shall receive an equal and the highest number of votes, and there is no choice, the inspectors of such election shall forthwith determine by lot which shall be deemed elected; and it shall further be the duty of such inspectors to make a certified statement over their own signatures, of the persons elected to fill the several offices in said village, and file the same with the county auditor of the county within ten days after the date of such election; and no act or ordinance of any board of trustees chosen at such election shall be valid until the provisions of this section are substantially complied with.

§ 17, c.24, Pol.C.

§ 2360. **County auditor to make record of statement.** It shall be the duty of the county auditor of the proper county to make a record of such certified statement, for which services there shall be paid the same fee as is allowed for similar services in other cases.

§ 18, c.24, Pol.C.

§ 2361. **Vacancy in board of trustees, how filled.** A vacancy occurring in the board of trustees or in any corporation office shall be filled by appointment at a special meeting of the trustees called for that purpose, but such appointment shall be made from the district if a trustee is appointed, and shall in no case extend beyond the annual election provided for in this chapter.

§ 19, c.24, Pol.C.

§ 2362. **Oath of officers.** The board of trustees chosen as aforesaid shall elect a president from its own body, and such president,

trustees and all other officers elect shall within five days after such election take and subscribe before some person authorized to administer the same the usual oath or affirmation for the faithful performance of the duties of their respective offices.

§ 2363. **Board of trustees a body corporate.** The president and trustees of such village and their successors in office shall constitute a body politic and corporate, by the name of the "village of ....." and may prosecute and defend suits to which they are a party. § 20, c.24, Pol.C. am'd.

§ 2364. **Notice of special meetings.** Special meetings of the qualified voters may be called by the clerk by order of the trustees of said village, by giving ten days' notice thereof in a newspaper if any is printed in such village, otherwise by posting up such notices in five public places therein, and such notice shall state the object for which each meeting is called. § 21, c.24, Pol.C. am'd.

#### ARTICLE 2. — POWERS OF THE BOARD OF TRUSTEES.

§ 2365. **General powers.** The board of trustees shall have the following powers: § 22, c.24, Pol.C. § 1, c. 106, 1887. am'd.

1. To have a common seal and alter the same.  
2. To purchase, hold or convey any estate, real or personal, for the use of the corporation, so far as such purchase may be necessary to carry out the objects contemplated by this chapter.

3. To organize fire companies, hook and ladder companies, to regulate their government and the times and manner of their exercise; to provide all necessary apparatus for the extinguishment of fires; to make owners of buildings provide ladders and fire buckets, which are hereby declared to be appurtenances to the real estate and exempt from execution, seizure or sale; and if the owner shall refuse to procure suitable ladders or fire buckets after reasonable notice the trustees may procure and deliver the same to him; and in default of payment therefor may recover of said owner the value of said ladder or fire buckets, by suit before the justice of the peace of the village, and the costs accrued thereby; to regulate the storage of gunpowder and other materials; to direct the construction of a place for the safe deposit of ashes; and may under any order by it, entered upon the proper book of the board, visit, or appoint one or more firewardens, to visit and examine at all reasonable hours dwelling houses, lots, yards, inclosures and buildings of every description, discover if any of them are in a dangerous condition and provide proper remedies for such dangers; to regulate the manner of putting up stoves and stovepipes; to prevent out-fires and the use of fireworks and the discharge of fire-arms within the limits of said corporation or such parts thereof as it may think proper; to compel the inhabitants of such village to aid in the extinguishment of fire and prevent its communication to other buildings, under such penalties as are in this chapter provided; to construct and preserve reservoirs, wells, pumps, and other waterworks, and to regulate the use thereof, and generally to establish other measures of prudence, for the prevention or extinguishment of fires as it shall deem proper.

4. To declare what shall constitute a nuisance and to prevent, abate and remove the same and take such other measures for the preservation of the public health as it shall deem necessary.

5. To restrain from running at large cattle, swine or other animals.

6. To restrain and prohibit gambling and other disorderly conduct; to suppress and prohibit the keeping of houses of ill fame; and to authorize the seizure and destruction of gambling apparatus.

7. To license, regulate or restrain auction establishments, traveling peddlers, public exhibitions and the sale of intoxicating liquors within the corporation.

8. To establish and regulate markets and build market houses and direct the location of slaughter houses.

9. To lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings, and to keep them in repair and to vacate the same.

10. To appoint street commissioners and also firewardens, not exceeding three.

11. To prohibit the incumbrance of the sidewalks of said village, and riding or driving thereon except to cross the same.

12. To provide means for keeping and preserving the peace and quietness of such village.

13. To insure the public property of such village.

14. To purchase, lay out and regulate cemeteries.

15. To plant trees upon public grounds and along the streets of such village and provide for their culture and preservation, and to inclose any public square or other public grounds within said corporation.

16. To levy and collect annual taxes not exceeding fifty cents on the hundred dollars valuation, and twenty-five cents poll tax on all property subject by law to taxation.

17. To levy and collect annually a tax of one dollar on each male dog and two dollars on each female dog owned and kept within such village.

18. To make and establish such by-laws, ordinances and regulations not repugnant to the laws of this state as may be necessary to carry into effect the provisions of this chapter, and to repeal, alter or amend the same as they shall seem to the board of trustees of such village to require; but every by-law, ordinance or regulation unless in case of emergency shall be published in a newspaper in such village if one is printed therein, or posted in five public places at least ten days before the same shall take effect.

19. To prescribe fines, penalties and forfeitures for violations of this chapter or of any by-law or ordinance by it established, not exceeding ten dollars for any one offense, which may be recovered by action in the name of the corporation, but such board may remit the whole or any part of the fine, penalty or forfeiture; provided, that the fine assessed for the violation of any ordinance requiring a license shall not be less than the amount required to be paid for such license although it may exceed the sum of ten dollars.

20. To authorize the construction and maintenance of street railways, water mains and water pipes and gas mains and gas pipes along or through the streets and alleys within the corporate limits, and to grant franchises and rights to persons, associations or corporations for such purposes, and to regulate the same.

§ 23, c. 24, Pol.C.  
am'd.

**§ 2366. Jurisdiction of trustees over public grounds.** The trustees shall have jurisdiction over any commons or public grounds belonging to said village and shall have power to regulate

with the consent of the majority of the owners thereof, the banks, shores and wharves of that portion of any navigable stream within the corporate limits but no ferries heretofore, or which may hereafter, be established by law shall be prejudiced or in any manner affected by the provisions of this section.

#### ARTICLE 3. — AUDITING AND PAYMENT OF ACCOUNTS.

§ 2367. **Appropriation of moneys.** All moneys, however derived, belonging to such corporation shall only be appropriated for such objects and defraying such expenses as accrue or necessarily arise in the exercise of powers granted by this chapter. No appropriation shall be made without an order to that effect entered upon a proper book to be kept for that purpose by such board. § 24, c.24, Pol.C.

§ 2368. **Accounts must be audited.** No account or claim against said village shall be audited or allowed by the board of trustees unless it is made out fully and itemized, and every such account audited shall be numbered from one upwards in the order they were presented and a memorandum of the same entered upon a book to be kept exclusively for that purpose. § 25, c.24, Pol.C. am'd.

§ 2369. **Payment of accounts.** No account or claim shall be paid unless audited and allowed by the board as aforesaid, and no moneys shall be drawn from the treasury except upon a warrant from the treasurer signed by the president of said village and attested by the clerk thereof. § 26, c.24, Pol.C. am'd.

#### ARTICLE 4. — CORPORATE INDEBTEDNESS.

§ 2370. **Contracting loans.** No village incorporated under this chapter shall have power to borrow money or incur any debt or liability unless the citizen owners of five-eighths of the taxable property of such village as evidenced by the assessment roll of the preceding year, petition the board of trustees to contract such debt or loan, and such petition shall have attached thereto an affidavit verifying the genuineness of the signatures to the same; and for any debt created thereby the trustees shall add to the tax duplicate of each year successively a levy sufficient to pay the annual interest on such debt or loan, with an addition of not less than five cents on the hundred dollars to create a sinking fund for the liquidation of the principal thereof. § 27, c.24, Pol.C. am'd.

#### ARTICLE 5. — QUALIFICATION OF OFFICERS.

§ 2371. **Certain officers to give bonds.** The clerk, assessor, treasurer, marshal and justice of the peace shall within ten days after their election or appointment each give a bond payable to the village with freehold sureties, to such an amount as the board of trustees shall direct; but the bonds of the treasurer and marshal shall respectively be for double the amount of the estimated tax duplicate for the current year. § 28, c.24, Pol.C.

§ 2372. **Books, etc., to be delivered to successor.** All books, vouchers, moneys or other property belonging to the corporation and in the charge or possession of an officer of the same shall be delivered to his successor when qualified. § 29, c.24, Pol.C.

ARTICLE 6. — LEVY AND COLLECTION OF TAXES.

§ 30, c.24, Pol.C. § **2373. Board determines amount of tax.** The board of trustees shall before the third Tuesday in May of each year determine the amount of general tax for the current year.

§ 31, c.24, Pol.C. am'd. § **2374. Duties of assessor.** The assessor shall assess all property liable to taxation in such village under such rules and regulations as the board may prescribe, and shall make return of his assessment roll to such board on or before the second Tuesday of June of each year.

§ 32, c.24, Pol.C. am'd. § **2375. Notice of opening of assessment roll.** The trustees shall cause the clerk of said corporation to put up notices in three or more public places in said village stating that the assessment roll is returned and open for inspection, and that on a day and at a place to be specified in said notice the trustees will hear and decide all complaints of and appeals from the acts of said assessor.

§ 33, c.24, Pol.C. am'd. § **2376. Duty of trustees after correction of tax list.** When the assessment roll shall have been corrected and completed the trustees shall levy a tax upon the taxable property of said village to such an amount as they may deem necessary, and shall set opposite the name of each person taxed a description and valuation of the property charged therewith and the amount of tax assessed against such person; and when such tax list shall have been made they shall cause a copy thereof with a warrant annexed to be delivered to the marshal of such village. The assessment roll and tax list shall be deposited with the treasurer of such village, who is hereby charged with the safe custody of the same.

§ 34, c.24, Pol.C. am'd. § **2377. Warrant to marshal to collect and pay over taxes.** Such warrant shall be under the seal of the corporation, signed by the president and trustees or a majority of them and attested by the clerk, and shall command the marshal to collect the taxes specified in his duplicate within ninety days and pay over the same and make return of said warrant to the treasurer of said village. Such trustees may renew such warrant for any period not exceeding thirty days.

§ 35, c.24, Pol.C. § **2378. Powers of marshal to collect tax.** The marshal shall collect the taxes on said duplicate when so required, and shall have the same power to enforce collections and shall be governed by the same rules and regulations as county treasurers and collectors, and shall have authority in like manner to collect by distress and sale of personal property; but if the tax cannot be so made and it becomes necessary to sell real estate such tax shall be certified to the county treasurer, who shall proceed to collect the same as directed by the law governing tax sales; provided, that this shall not apply to incorporated cities, villages or towns for which a different method is provided by their charters.

§ 36, c.24, Pol.C. am'd. § **2379. Tax duplicate may be delivered to county collector.** The trustees of such village may at their option in the first instance deliver the tax duplicate to the collector of the proper county on or before the first day of August in each year, instead of the marshal of such village, and said collector shall enter said tax and, if delinquent, the interest and penalty thereon upon his duplicate.

§ 37, c.24, Pol.C. § **2380. Compensation of county and town treasurer.** The treasurer of such county shall collect the corporation taxes upon such



duplicate as other taxes are collected, and pay the same over to the treasurer of such corporation. The treasurer shall be allowed and paid by the corporation the same compensation as is paid by the county for like services.

§ 2381. **Special taxes assessed to be a lien.** All taxes assessed by the board of trustees of villages incorporated under the provisions of this chapter for the grading, paving or otherwise improving the streets of the village, or for building or repairing sidewalks, shall be a lien on the lots or pieces of ground subject to the same from the time the amount thereof shall have been ascertained; and in case any error or irregularity should occur in levying or collecting any such tax, proceedings may be taken anew so as to obviate any such error or irregularity. § 58, c.24, Pol.C. am'd.

§ 2382. **Special taxes, how collectible. Penalty for delinquency.** Such special tax shall be due and may be collected as the improvements are completed in front of or along or upon any block, lot or piece of ground, or at the time the improvement is completed, as may be provided in the ordinance levying the tax. Such tax if not paid within thirty days after becoming due shall have added thereto a penalty of ten per cent and shall bear interest from the day of sale at the rate of twenty-five per cent per annum, to be computed on the tax, penalty and costs of sale. § 59, c.24, Pol.C.

§ 2383. **What costs may be included in special tax.** The cost and expenses of grading, filling, paving, macadamizing, culverting, curbing and ditching or otherwise improving streets, sidewalks, alleys, avenues or lanes at their intersections, may be included in the special tax levied for the improvement of any street, sidewalk, alley, avenue or lane as may be deemed best by the board of trustees of such village. § 60, c.24, Pol.C. am'd.

§ 2384. **Marshal's duty in relation to special taxes.** When the special tax is levied it shall be the duty of the marshal of such village to calculate the amount of tax on each block, lot or piece of ground, and file a statement thereof with the village clerk, who shall as soon as the tax is due on any block, lot or piece of ground issue a certificate describing it, its number and lot and block, and stating the amount of tax due thereon, and the name of the person entitled to the same, and the purpose for which said tax was levied; and such certificate so given shall be the tax warrant of the collector, and shall be by the clerk placed in the hands of the marshal, and he shall keep a record of all such warrants and enter on the margin of such records all amounts paid and by whom paid. § 61, c.24, Pol.C. am'd.

#### ARTICLE 7. — POWERS AND DUTIES OF OFFICERS.

§ 2385. **Duties of village treasurer.** The treasurer of each incorporated village shall so keep his accounts as to show where and from what sources all moneys paid him have been derived, and to whom and when such moneys or any part thereof have been paid. The treasurer shall grant all licenses authorized by this chapter upon the presentation of the receipt of the marshal that the money therefor has been paid to said marshal. His books, accounts and vouchers shall at all times be subject to the examination of the board of trustees, and it is its duty to examine the same at a regular meeting of such board on some day between the first and last Mondays of April in each year, and have a settlement with said treasurer. § 38, c.24, Pol.C. am'd.

- § 39, c.24, Pol.C.    **§ 2386. Board of trustees to publish receipts and expenditures.** It shall be the duty of the board of trustees immediately after the annual settlement with the treasurer of said corporation to publish in a newspaper if one is published therein, or if there is no newspaper then by posting in three or more public places, an exhibit of the receipts and expenditures specifying the sources of such receipts, what appropriations were made, for what objects, and the specific amount of each.
- § 40, c.24, Pol.C.  
am'd.    **§ 2387. Duties of clerk.** The clerk of such village shall have the custody of the records, books and papers of the board of trustees and shall attend all meetings and keep a record of the proceedings of said board, and shall perform all other duties appertaining to his office, as required of him by the by-laws.
- § 41, c.24, Pol.C.  
am'd.    **§ 2388. Powers of marshal.** The marshal of such village shall be a peace officer and shall possess the powers and be subject to the liabilities possessed and conferred by law upon sheriffs in executing the orders of the trustees or enforcing the by-laws and ordinances of said village.
- § 42, c.24, Pol.C.    **§ 2389. Trustees to superintend grading, etc.** The board of trustees shall superintend the grading, paving and improving of streets and the building and repairing of sidewalks.
- § 43, c.24, Pol.C.    **§ 2390. Firewardens, duties of.** The firewardens shall attend all fires and give their personal superintendence to extinguish the same, and do all other acts required by the by-laws, and obey all orders given by the board of trustees in relation to the fire department. Trustees shall by virtue of their office be firewardens.
- § 44, c.24, Pol.C.  
am'd.    **§ 2391. Compensation of village officers.** The trustees, clerk, assessor, treasurer, marshal and justice of the peace shall respectively receive for their services such compensation as the board of trustees in their by-laws may decide; and the board shall cause other officers of such village to be paid for their services a just and reasonable compensation.

#### ARTICLE 8. — SIDEWALKS AND STREETS.

- § 1. c. 107, 1882.    **§ 2392. Sidewalks, streets, etc. Petition for building or repairing.** Whenever two-thirds of the resident owners in number or in value of real estate bounding both sides of any street not less than one square, shall petition to have such street graded, paved or otherwise improved or the sidewalk thereof built or repaired, or when two-thirds of the owners of real estate in number or in value on one side of such street shall desire a sidewalk on that side, it shall be the duty of such board to levy and cause to be collected by tax upon the owners of the real estate, on such street or part of street such a sum of money as is necessary for the improvement of said street or sidewalk or the building of said sidewalk in front of each of the respective lots or at the side of any corner lot or lots or real estate; provided, however, that no real estate shall be taxed as aforesaid for sidewalks built or improvements done at a greater distance from the front of said real estate than one-half the distance to the opposite side of said street.
- § 46, c.24, Pol.C.  
am'd.    **§ 2393. No one exempt from highway tax.** Nothing contained in this article shall exempt the inhabitants of any village from the payment of highway taxes legally assessed, nor from the forma-

tion of one or more road districts irrespective of the corporate limits of such village.

#### ARTICLE 9. — EXTENSION OF CORPORATE LIMITS.

§ 2394. **Addition to corporation.** When two-thirds of the owners of a tier of out-lots adjoining an incorporated village shall sign a petition asking that the corporate limits of said village be extended so as to include said out-lots, the board of trustees of said village shall cause said petition to be recorded and make an order that said tier of out-lots shall thereafter be included and constituted a part of said corporation, and the inhabitants residing thereon and owners thereof shall be subject to and entitled to all privileges of said corporation. § 47, c.24, Pol.C. am'd.

§ 2395. **Annexing additional lots.** Whenever there shall be lots laid off and platted adjoining such village, and a record of the same is made in the register of deeds' office of the proper county, the trustees may by a resolution of their board extend the boundary of such village so as to include such lots; and the lots thus annexed shall thereafter form a part of such village and be within the jurisdiction thereof. The trustees shall immediately thereafter file a copy of such resolution, together with a plat and map of survey defining the boundaries of such addition, in the office of the register of deeds. § 48, c.24, Pol.C. am'd.

§ 2396. **Proceedings of trustees to annex additions.** When any village shall desire to annex contiguous territory thereto not platted or recorded, the trustees shall present to the board of county commissioners a petition setting forth the reasons for such annexation, and shall accompany the same with a map or plat accurately describing by metes and bounds the territory proposed to be attached, which shall be verified by affidavit. Such trustees shall give thirty days' notice by publication in a newspaper printed in such village, if any, otherwise in the county, and if there is none in the county then by posting up such notice in five or more public places within the village; a copy of such notice shall be served upon the owner of such territory if known and is a resident of the county. § 49, c.24, Pol.C. am'd.

§ 2397. **County commissioners to hear and order annexation.** The board of county commissioners upon the reception of such petition shall consider the same and shall have the testimony offered for or against such annexation, and if after inspection of the map and the testimony being heard such board is of the opinion that the prayer of such petition should be granted it shall cause an entry to be made on the order book specifying the territory annexed, with the boundaries thereof according to the survey, which entry or an attested copy thereof shall be conclusive evidence in all courts of such annexation. § 50, c.24, Pol.C.

#### ARTICLE 10. — DISSOLUTION OF CORPORATION.

§ 2398. **Petition for election, etc.** When an application signed by one-third of the legal voters of any incorporated village shall be presented to the board of trustees in writing asking for a dissolution of the corporation, setting forth the reasons therefor, it shall be competent for the board if it deems the reasons good to call a § 51, c.24, Pol.C. am'd.

meeting of the voters of such village by giving ten days' notice thereof as provided in this chapter, to determine whether such corporation shall be dissolved. The board of trustees shall preside at such meeting and the polls shall be opened as at other elections, and the voters shall vote by ballot, "yes" or "no." If a majority of all the votes given shall have thereon the word "yes," and such votes shall have been given by two-fifths of all the legal voters in such village, a statement of the vote signed by the president and attested by the clerk shall be filed in the office of the register of deeds of the county, and such village shall at the expiration of six months from the time of holding such meeting cease to be a corporation, and the property belonging to such corporation after the payment of its debts and liabilities shall be disposed of in such manner as a majority of the voters of such village at any special meeting thereof may direct.

§ 52, c.24, Pol.C. **§ 2399. Dissolution not to affect contracts.** No such dissolution shall affect the rights of any person in any contract or agreement to which such corporation is a party.

ARTICLE 11.—MISCELLANEOUS.

§ 53, c.24, Pol.C. **§ 2400. Proof of compliance with law by village.** Whenever any suit shall be instituted by an incorporated village it shall not be required to show its compliance with any of the provisions of this chapter as to its organization or publication of by-laws or ordinances, unless the same is controverted under oath.

§ 54, c.24, Pol.C. **§ 2401. Towns and villages may adopt this chapter.** Any town or village heretofore incorporated may by resolution of the board of trustees or other municipal board thereof entered upon the record book of the corporation become incorporated under this chapter, but the same shall be deemed a surrender of all the rights and franchises acquired under any former act of incorporation or acts amendatory thereto. A copy of such resolution shall be filed with the register of deeds of the proper county and entered by him of record. Trustees and other officers of such incorporated towns or villages by whatever name designated, performing duties of a like nature to those required of officers, created by this chapter shall continue to be the officers of such towns or villages, under the names specified in this chapter, until their successors are elected and qualified.

§ 55, c.24, Pol.C. **§ 2402. When debt not nullified.** No debt or liability due to or from any incorporated town or village shall be unpaid by reason of such town or village being brought within the provisions of this chapter and becoming incorporated under it.

ARTICLE 12.—PROCEDURE IN VILLAGE JUSTICE'S COURT.

§ 1, c. 134, 1881. **§ 2403. Village justice, jurisdiction of.** Justices of the peace of any village organized under the provisions of this chapter shall have exclusive jurisdiction to hear and determine all offenses against the ordinances of such village, and concurrent jurisdiction with all other justices in all civil actions and in all criminal actions for offenses against the laws of the state, committed within the county where such village is situated.

§ 1, c. 134, 1881. **§ 2404. Procedure in, how governed.** Whenever complaint shall be made to the justice of the peace of such village, upon

oath or affirmation of any person competent to testify against the accused, that an offense has been committed of which such justice of the peace has jurisdiction, said justice of the peace shall forthwith issue a warrant for the arrest of the offender, which warrant shall be served by the marshal of the village, the sheriff or any constable of the county, or any person specially appointed by the justice for that purpose, and in all preliminary examinations before such justice he shall be governed by the code of criminal procedure, and in all trials before such justice for offenses against the state he shall be governed by the justices' code.

§ 2405. **Duty of justice when defendant appears.** When any person shall be brought before such justice of the peace upon a warrant it shall be his duty to hear and determine the complaint alleged against him. § 63, c.24, Pol.C.

§ 2406. **Proceedings when trial is postponed.** Upon good cause shown such justice may postpone the trial of the cause to a day certain, in which case he shall require the defendant to enter into an undertaking with sufficient surety conditioned that he will appear before such justice at the time and place appointed, then and there to answer the complaint alleged against him. § 64, c.24, Pol.C.

§ 2407. **Justice to summon witnesses.** It shall be the duty of such justice to summon all persons whose testimony may be deemed material as witnesses at the trial, and to enforce their attendance by attachment, if necessary, and when a trial shall be continued by such justice he may verbally notify such witnesses as may be present to attend before him at the time to which the action is continued, to testify therein, and such verbal notice shall be as valid as a summons. § 65, c.24, Pol.C.

§ 2408. **Trials, how governed.** All trials before such justice shall be governed by the criminal procedure applicable to justices' courts. § 66, c.24, Pol.C.

§ 2409. **Judgment when defendant found guilty.** In all trials for offenses under the ordinances of the village, if the defendant is found guilty the justice shall render judgment accordingly. It shall be part of the judgment that the defendant stand committed until the judgment is satisfied, in no case to exceed one day for every seventy-five cents of the fine and costs assessed against such defendant. § 67, c.24, Pol.C. am'd.

§ 2410. **Justice is peace officer. Court open every day.** Such justice shall be a conservator of the peace and his court shall be opened every day except Sunday to hear and determine any and all cases cognizable before him; and he shall have power to bring persons forthwith before him for trial. No act shall be performed by him on Sunday except to receive complaints, issue process and take bail. § 68, c.24, Pol.C.

§ 2411. **Appeals.** In all cases before such justice an appeal may be taken by the defendant to the district court of the county in which such village is situated; but no appeal shall be allowed unless such defendant shall within ten days enter into an undertaking with sufficient sureties to be approved by such justice, conditioned for the payment of the fine and costs and costs of appeal, and that he will render himself in execution thereof in case such appeal is determined against him. § 69, c.24, Pol.C. am'd.

§ 2412. **Punishment for violation of ordinances.** Any person convicted before such justice of an offense against the § 70, c.24, Pol.C. am'd.

ordinances of the village shall be punished by fine as may be regulated by ordinance.

§ 71, c.24, Pol.C.  
am'd.

**§ 2413. Power of justice. Jury. Appeals.** The justice of the peace of the village shall have power to enforce obedience to all orders, rules, judgments and decrees made by him; and he may fine or imprison for contempt offered to him while holding court or to process issued or orders made by him, in the same manner and to the same extent as provided for courts of justices of the peace. From any final conviction, sentence or judgment of said court an appeal may be taken to the district court within the time and in the manner prescribed for taking appeals from justices' courts and the district court shall on such appeals take judicial notice of all the ordinances of such village. Actions before such justices of the peace, arising under village ordinances, shall be tried and determined by such justices of the peace without the intervention of a jury unless the defendant demands a trial by jury; and when a demand shall be so made the trial shall be by jury of twelve citizens of such village having the qualifications of jurors, who shall be summoned by the marshal upon a venire issued by such justice of the peace. The venire for a jury shall contain eighteen names, three of which shall be stricken off the list by the defendant and three by the marshal; the remaining twelve names shall constitute a jury for the trial of an action. If there is any challenge for cause such justice of the peace shall try the question in a summary manner, and he may examine the challenged jurors under oath.

§ 72, c.24, Pol.C.

**§ 2414. Fees of jurors.** Such jurors shall each be paid fifty cents for their services in each action.

§ 73, c.24, Pol.C.

**§ 2415. Costs of jury taxed to defendant, when.** In case the defendant is found guilty the costs of the jury shall be taxed against him as a part of the costs of the action and the amount thereof shall be a part of the judgment.

§ 74, c.24, Pol.C.

**§ 2416. Proceedings, how governed.** In all actions not herein specially provided for the process and proceedings of the court of such justice of the peace shall be governed by the laws regulating proceedings in justices' courts in criminal actions.

ARTICLE 13. — ORDINANCES.

§ 57, c.24, Pol.C.  
am'd.

**§ 2417. How ordinances may be proven.** All ordinances of the village may be proven by the ordinance book or the certificate of the clerk of the village under the seal of the village; and when printed in a newspaper or published in book or pamphlet form and purporting to be published or printed by authority of the village, may be read and received in all courts and places without further proof.

CHAPTER 30.

MISCELLANEOUS PROVISIONS RELATING TO CITIES AND VILLAGES.

ARTICLE 1.—TOWN PLATS.

§ 2418. **Survey and plat to be made.** When any person wishes to lay out a town in this state or an addition or subdivision of out-lots, such person shall cause the same to be surveyed and a plat thereof made which shall particularly describe and set forth all the streets, alleys, commons or public grounds and all in and out-lots or fractional lots within or adjoining said town, giving the names, width, courses, boundaries and extent of all such streets and alleys. § 1. c. 28, Pol. C.

§ 2419. **Lots and squares numbered.** All the in-lots intended for sale shall be numbered in progressive numbers or by squares in which they are situated, and their precise length and width shall be stated on said map or plat; and out-lots shall in like manner be surveyed and numbered and their precise length and width stated on the plat or map, together with any streets, alleys or roads which shall divide or border the same. § 1. c. 106, 1887.

§ 2420. **Base line, how formed.** The proprietor of the town, addition or subdivision of out-lots, by himself or agent, shall at the time of surveying and laying the same out cause to be planted and firmly fixed in the ground on the line of the main streets of said town two good and sufficient stones of such size and dimension as the surveyor shall direct, said stones to be at least two hundred and fifty yards apart; and the line thus formed shall be a base line from which to make future surveys; and the point or points where the same may be found shall be distinguished on the plat or map. § 3. c. 26, Pol. C.

§ 2421. **Plat to be certified and acknowledged.** The plat or map after having been completed shall be certified by the surveyor and the officers; and every person whose duty it shall be to comply with the foregoing requirements shall at or before the time of offering said plat or map for record acknowledge the same before some person authorized to take acknowledgments. A certificate of such acknowledgment shall by the officer taking the same be indorsed on the plat or map, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record. § 4. c. 26, Pol. C.

§ 2422. **Lands donated or granted. Streets.** When the plat or map shall have been made out and certified, acknowledged and recorded as required by this chapter, every donation or grant to the public, or to any individual, religious society, or corporation, marked or noted as such on said plat or map, shall be deemed a sufficient conveyance to vest the fee simple of such parcel or parcels of land as are therein expressed, and shall be considered to all intents and purposes a general warranty against such donors, their heirs or representatives, to said donees, or grantees, for their use for the uses and purposes therein named, expressed and intended, and no other use and purpose whatever; and the land intended to be used for the streets, alleys, ways, commons or other public uses in any town, city or addition thereto shall be held in the corporate name thereof in trust to and for the use and purposes set forth and expressed or intended. § 5. c. 26, Pol. C.

- § 6, c. 26, Pol. C.    **§ 2423. Record of plat in unorganized counties.** If the county in which said town or addition is situated shall not be organized, the plat or map shall be recorded in the office of the register of deeds of the county to which such county is at the time attached for judicial purposes.
- § 7, c. 26, Pol. C.    **§ 2424. Towns already laid out must comply with this chapter.** When any town, addition or subdivision has been heretofore laid out and lots sold in this state by agents or proprietors, and a plat or map of the same has not been acknowledged and recorded in conformity with acts heretofore in force, it shall be the duty and it is hereby required of the county commissioners or a majority of them in such county, or proprietor or proprietors who have laid out the same, or his or their legal representatives, to have the same fairly, fully and clearly made out, acknowledged and recorded in the proper county, in the form and manner required by this chapter; noticing and particularly describing the donation of lands or otherwise to individual societies, bodies politic, or for common or public purposes; provided, that if the lots shall have been differently numbered and sales made and they cannot be conveniently changed they shall be returned as originally stated; but in all other respects the plat or map shall conform to the requirements of this chapter.
- § 8, c. 26, Pol. C.    **§ 2425. Fees of surveyor and register.** The surveyor who shall lay out, survey and plat any town or addition shall be entitled to receive twenty-five cents for each and every in and out-lot the same may contain, unless otherwise agreed, and the register of deeds of the county recording the same shall receive the sum of two cents for each and every lot as aforesaid; the said plat and survey to be by him transcribed or copied into a book to be provided for that purpose.
- § 9, c. 26, Pol. C.    **§ 2426. Penalty if sale or lease is offered before compliance with this act.** If any person or persons shall dispose of, offer for sale or lease for any time any out or in-lots in any town, village or city or in any addition to any town, village or city or any part thereof, which shall hereafter be laid out, until all the foregoing requirements of this chapter shall have been complied with, every person so offending shall forfeit and pay the sum of ten dollars for each and every lot or part of a lot sold or disposed of, leased or offered for sale.
- § 10, c. 26, Pol. C.    **§ 2427. Penalty if officer or other persons neglect to do duty.** If any officer or person whose duty it is to comply with any of the requirements of this article shall neglect or refuse so to do, he shall forfeit and pay a sum not less than ten nor more than one hundred dollars for each month he shall delay a compliance.
- § 12, c. 26, Pol. C.    **§ 2428. Forfeitures and liabilities.** All forfeitures and liabilities which may be incurred or arise under this chapter shall be prosecuted for and recovered in the name of the county treasurer; and any officer paying over any money to such treasurer, received under any of the provisions of this chapter, shall take his receipt therefor and forthwith file such receipt with the county auditor, and he shall charge the amount of such receipt against said treasurer on the books of the county.

#### ARTICLE 2. — VACATION OF PLATS BY DISTRICT COURT.

- § 13, c. 26, Pol. C.    **§ 2429. District court may alter or vacate towns.** The district court is authorized and empowered on application made by



the proprietors of any town within the county to alter or vacate the same or any part thereof.

§ 2430. **Notice of application, how given.** If any proprietor of a town shall be desirous of altering or vacating the same or any part thereof, such proprietor shall give notice in writing of such intended application in at least two of the most public places in the county wherein such town may be situated, and insert a copy thereof in a newspaper printed or in circulation in said county if there is one, at least forty days prior to the sitting of the court to which he intends to make such application. § 14, c.26, Pol.C.

§ 2431. **Proceedings for.** If such applicant shall produce to the court satisfactory evidence that the notice required by the preceding section has been given, the court shall proceed to hear and determine such petition, and may alter or vacate such town or any part thereof, and order the proceedings thereon to be recorded by the clerk with the records of the court. § 15, c.26, Pol.C.

ARTICLE 3. — VACATION OF PLATS BY WRITTEN DECLARATION.

§ 2432. **Plats, how vacated.** Any plat of any town, village or city or addition thereto or any subdivision of land may be vacated by the proprietors thereof at any time before the sale of any lots therein by a written instrument declaring the same to be vacated, duly executed, acknowledged or proved and recorded in the same office with the plat to be vacated; and the executing and recording of such writing shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, commons and public grounds laid out as described in such plat. And in cases where any lots have been sold the plat may be vacated as herein provided by all the owners of lots in such plat joining in the execution of the writing aforesaid; provided, that this article shall not be construed as applying to any of the territory included within the limits of any incorporated city, town or village created and organized under and by virtue of a special act. § 1, c. 109, 1887.

§ 2433. **Part of plat vacated, how.** Any part of a plat may be vacated under the provisions and subject to the conditions of this article; provided, such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat; and provided, further, that nothing contained in this section shall authorize the closing or obstructing of any public highways laid out according to law. § 2, c. 109, 1887.

§ 2434. **Proprietors' rights when vacated.** When any part of a plat shall be vacated as aforesaid the proprietors of the lots so vacated may inclose the streets, alleys and public grounds adjoining said lots in equal proportion. § 3, c. 109, 1887.

§ 2435. **Register of deeds to mark plat.** The register of deeds in whose office the plats aforesaid are recorded shall write in plain, legible letters across that part of said plat so vacated the word "vacated," and also make a reference on the same to the volume and page in which such instrument of vacation is recorded. § 4, c. 109, 1887.

§ 2436. **Owner may plat again.** The owner of any lots in a plat so vacated may cause the same and a proportionate part of adjacent streets and public grounds to be platted and numbered by the § 5, c. 109, 1887.

county surveyor, and when such plat is acknowledged by such owner and recorded in the office of the register of deeds such lots may be conveyed and assessed by the numbers given them on such plat.

ARTICLE 4.—CHANGING LIMITS OF CITIES, TOWNS AND VILLAGES.

§ 1, c. 104, 1887.  
am'd.     **§ 2437. Limits may be extended.** On petition in writing signed by not less than three-fourths of the legal voters and by the owners of not less than three-fourths, in value, of the property in any territory contiguous to any incorporated city or town or village and not embraced within the limits thereof, the city council of the city or the board of trustees of the town or village, as the case may be, may by ordinance annex such territory to such city, town or village upon filing a copy of such ordinance with an accurate map of the territory annexed, duly certified by the mayor of the city or the president of the board of trustees of the town or village in the office of the register of deeds of the county where the annexed territory or the greater portion of it is situated, and having the same recorded therein.

§ 2, c. 104, 1887.  
am'd.     **§ 2438. Limits may be restricted.** On petition in writing signed by not less than three-fourths of the legal voters and by the owners of not less than three-fourths, in value, of the property in any territory within any incorporated city, town or village, and being upon the border and within the limits thereof, the city council of the city or the board of trustees of the town or village, as the case may be, may disconnect and exclude such territory from such city, town or village; provided, that the provisions of this section shall only apply to lands not laid out into city, town or village lots or blocks.

§ 3, c. 104, 1887.  
am'd.     **§ 2439. Notice of petition to be published.** No final action shall be taken by the city council or the board of trustees, as the case may be, upon any petition presented in pursuance of the provisions of the last two sections until notice of the presentation of such petition has been given by the petitioners by publication at least once in each week for two successive weeks in some newspaper published in the city, town or village where the petition is presented; or if no newspaper is published therein, then in the newspaper published nearest thereto.

§ 4, c. 104, 1887.  
am'd.     **§ 2440. Petition presented to district court, when.** Upon the failure of the city council, or the board of trustees, as the case may be, to grant the request contained in any petition presented in accordance with the provisions of sections 2437 and 2438, for thirty days after the last publication of the notice provided for in the last section, or upon a refusal to grant such request, the petitioners may present their petition to the district court of the county in which such city, town or village or the greater portion of it is situated, by filing such petition with the clerk of said court. Notice of such filing shall be served by the petitioners upon the mayor of the city or the president of the board of trustees, as the case may be, together with a notice of the time and place when and where a hearing will be had upon such petition, at least ten days before the date of such hearing. The hearing on the petition may be had at a regular or special term of the district court or by the court in vacation.

§ 5, c. 104, 1887.     **§ 2441. Duty of court.** If upon the hearing the court shall find that the request of the petitioners ought to be granted and can be so granted without injustice to the inhabitants or persons interested the court shall so order. If the court shall find against the

petitioners the petition shall be dismissed at the cost of the petitioners.

§ 2442. **Map to be filed.** When any territory is annexed by ordinance or by order of court to any city, town or village as provided in this article, it shall be the duty of the mayor of the city or of the president of the board of trustees of the town or village, as the case may be, to cause an accurate map of such added territory, together with a copy of the ordinance for the annexation or a copy of the order of court therefor, duly certified, to be filed and recorded in the office of the register of deeds of the county in which such added territory or the greater portion of it is situated. If territory is disconnected or excluded from any city, town or village a copy of the ordinance or judgment therefor shall be so filed and recorded, at the expense of the petitioners therefor. § 6, c. 104, 1887. am'd.

ARTICLE 5. — CHANGING NAMES OF TOWNS OR VILLAGES.

§ 2443. **Petition.** When any number of the inhabitants of any town or village shall desire to change the name thereof, there shall be filed in the office of the county auditor a petition for that purpose, which must be signed by at least two-thirds of the qualified electors of said town or village, setting forth the name by which said town or village is known, its location as near as practicable, and giving the name which they desire the town shall thereafter be known by. § 1, c. 31, 1885.

§ 2444. **Notice.** Notice of the filing of such petition and the time and place when the same shall be heard and the objects and purposes thereof shall be given by posting up a written or printed notice in at least five public places in the town or village, the name of which is sought to be changed, at least four weeks before the meeting of the board of county commissioners. § 2, c. 31, 1885.

§ 2445. **Duty of county commissioners.** At the next regular meeting of the board after such notice shall have been posted as aforesaid, the board shall proceed to hear and determine the petition unless the hearing is for good cause continued until the next meeting; and the board shall on the hearing of said petition also hear any remonstrance against the proposed change; and if on the hearing it shall appear to the board that two-thirds of the qualified electors of the town or village in good faith signed said petition for change of name and desired the same, then the board shall order said name to be changed as prayed for. § 3, c. 31, 1885.

§ 2446. **Record.** The order of the board shall thereupon be entered of record, giving the name of the town or village as set forth in such petition, the new name given, the time when the change shall take effect, which shall not be less than thirty days thereafter, and directing that notice of said change shall be published in at least one newspaper published in the county, if any, and if there is no newspaper published in the county, then such notice shall be published by posting the same for four weeks on the front door of the courthouse in which the last term of the district court of said county was held. § 4, c. 31, 1885.

§ 2447. **Proof of publication to be filed.** Proof of such publication shall be filed in the office of the county auditor; and on the day fixed by the board as aforesaid the change shall be complete; provided, that whenever the name of any town or village shall be changed § 5, c. 31, 1885.

under the provisions of this article the county auditor shall immediately notify the register of deeds who shall note the change of name upon the plat of said town or village with the date thereof.

- § 6, c. 31, 1885. **§ 2448. Costs.** In all cases arising under the provisions of this article where there is no remonstrance or opposition to said petition, the petitioners shall pay all costs; but in all other cases costs shall abide the result of the proceeding and be taxed to either party in the discretion of the board, or divided equitably between the parties.

ARTICLE 6. — CHANGING WARDS.

- § 1, c. 110, 1887. **§ 2449. Petition. Notice.** When a petition shall be presented to the mayor and council of any city or the president and trustees of any town or village, signed by a majority of the legal voters thereof, to be determined by the number of names on the poll list of the last regular election, praying for a change in the name, number or boundary of wards of said city, town or village, the council of such corporation shall at once cause to be published in a weekly newspaper of the city or village in at least three issues a notice of the day, hour and place of meeting at which they will consider such petition.
- § 2, c. 110, 1887. **§ 2450. Council may order change, when.** If it shall appear to the council or trustees that the change petitioned for is desirable and for the best interests of the city, town or village the council may by a majority vote of all the members elect order the change desired, but no such change shall take effect until the next regular election.
- § 3, c. 110, 1887. **§ 2451. Plats and records to be changed.** The council shall direct the corporation attorney to cause such needful changes in papers, plats and matters of record as the change may demand.
- § 4, c. 110, 1887. **§ 2452. Duty of clerk.** It shall be the duty of the town, village or city clerk or auditor to make such changes in assessment lists as the change in wards necessitates.
- § 5, c. 110, 1887. **§ 2453. Manner of holding election in new ward.** Ten days before the next regular election the council shall designate the proper polling place or places for the new ward or wards, appoint judges and clerks, and make all necessary provisions for holding the election in the new ward or wards, naming the several officers to be chosen.

ARTICLE 7. — LOCATING AND VACATING STREETS AND ALLEYS.

- § 1, c. 111, 1887. **§ 2454. Power to open, improve and vacate streets and alleys.** Any city, town or village is authorized and empowered by and through its proper municipal officers to lay out, open, grade and otherwise improve the streets, alleys, sewers, sidewalks and crossings therein and to keep them in repair and to vacate the same.
- § 1, c. 107, 1887. **§ 2455. Petition.** Whenever a majority of the resident owners of real estate situated in any block or subdivision of any city, town or village in the state shall be desirous of locating an alleyway through such block or subdivision when said block or subdivision contains no alleyway, they shall after having given notice of their intention so to do by publishing notice thereof in a newspaper printed and published in the city, town or village wherein said block or subdivision is situated for three consecutive weeks, once in each week prior thereto, present their application in writing to the judge of the district court of the county describing the proposed location of the proposed alleyway.

§ 2456. **Commission to appraise damages.** Upon the presentation to him of such application, together with due proof of publication of the notice required in the preceding section, the judge shall appoint three commissioners to appraise the damages, if any, to the property in the block or subdivision wherein said alleyway is sought to be located. Said commissioners in their appraisalment may and shall take into consideration and offset any advantage to abutting property against the damages thereto. § 2. c. 107, 1887.

§ 2457. **Damages and costs assessed against property.** Said commissioners shall thereupon locate said alleyway and make their return forthwith to said court, which return shall contain a plat of the block or subdivision showing the location of the proposed alleyway, a statement of the damages to each lot or parcel of land in said block or subdivision, together with the aggregate amount of the damages, and if such location is granted by the court said damages and all costs of the proceedings shall be entered up against said block or subdivision and be a first lien thereon against each lot or parcel in proportion to the assessed valuation thereof by the last assessment next preceding the date of the granting of said order, and shall be by the clerk of said court certified to the county auditor of the county, who shall in making out the duplicate assessment and tax of said county next thereafter enter said sums therein in a separate column opposite the description of the property against which the taxes so remain unpaid, and such taxes shall be collected in the same manner and by the same person as the general taxes of said county are collected, and shall when so collected be paid over to the person entitled thereto. § 3. c. 107, 1887.

§ 2458. **Notice to be posted, when.** If no paper is published in such city, town or village, then the notice required in section 2455 to be published may be posted in three public places within such city, town or village for the period of thirty days, in lieu of such publication.

ARTICLE 8.—WATERWORKS AND FIRE APPARATUS.

§ 2459. **Power of municipalities to provide.** All cities, towns and villages in this state having a population of one thousand inhabitants or more are authorized and empowered to purchase, erect, lease, rent, manage and maintain any system or part of system of waterworks, hydrants and supply of water, telegraph fire signals or fire apparatus that may be of use in the prevention and extinguishment of fires; and to pass such ordinances penal or otherwise as may be necessary for the full protection, maintenance, management and control of the property so leased, purchased or erected. The city council or board of trustees of such city or municipal corporation is authorized and empowered to assess, levy and collect taxes for the purposes aforesaid, and to do all acts necessary to carry such lease and contracts of purchase, erection or maintenance into effect, and to pay the stipulated rent or contract prices for the property so leased, purchased, erected or to be maintained; provided, that any such lease or contracts for purchase, erection or maintenance which shall stipulate for an annual payment greater than an annual levy of five mills on each dollar of the assessed valuation of such city or municipal corporation shall not be authorized until the contract providing therefor shall first have been submitted to a vote of the people of such city § 1. c. 105, 1887.

or municipal corporation at a general or special election and ratified by a majority of the voters of said city or municipal corporation voting at such election.

§ 2, c. 105, 1887.  
am'd.

§ 2460. **How construed.** The last section shall not be construed to modify or affect the power of any city, town or village or the power of the city council or board of trustees thereof as authorized and granted by the charters of such cities, towns or villages or the laws under which they were incorporated, where said charter or law shall have expressly given to such municipality the power to lease rent or maintain such property.

§ 1, c. 134, 1893.

§ 2461. **Election to determine sale.** When any city, town or village shall own the waterworks system of such city, town or village, neither the city council nor the authorities of any such city, town or village shall have authority to sell or dispose of such waterworks system, mains, pumping stations or any part thereof, unless the proposition to sell the same shall first have been submitted to the legal voters of such city, town or village at a special election called for that purpose, and such sale shall have been authorized by a majority vote of all the votes cast at such election; provided, that nothing herein shall prevent the city council of any city from selling or disposing of any machinery, material or other property belonging to any such system which may have become inadequate or insufficient for the purpose for which the same was intended to be used.

#### ARTICLE 9.—INSURANCE TAX FOR FIRE DEPARTMENTS.

§ 1, c. 53, 1887.

§ 2462. **Duty of clerk.** The clerk of each city, town or village in this state having an organized fire department shall on or before the thirty-first day of October in each year make and file with the state auditor his certificate stating the existence of such department, the date of its organization, the number of steam, hand or other engines, hook and ladder trucks and hose carts in actual use, the number of organized companies, the number of members of each company, and the system of water supply in use in such department, together with such other facts as the auditor may require.

§ 2, c. 53, 1887.

§ 2463. **State auditor to furnish blanks. Insurance companies to make statement.** The blanks required by law to be furnished by the state auditor to insurance companies shall contain the names of the cities, towns and villages entitled to benefits under this article, and every insurance company doing business in this state shall include in its annual statement the amount of all premiums received by them upon policies issued on property within the corporate limits of such city, town or village during the year ending on the preceding thirty-first day of December.

§ 3, c. 53, 1887.  
§ 1, c. 66, 1883.

§ 2464. **State auditor to issue warrants.** The state auditor on the first day of July thereafter shall issue and deliver to the treasurer in each city, town or village having an organized fire department entitled to the benefits of this article his warrant upon the state treasurer for an amount equal to two per cent of the premiums received upon policies issued on property in any such city, town or village, which warrants shall be numbered consecutively and shall each specify the date of its issuance and to whom payable, and such warrants shall be paid by the state treasurer to the treasurer of such city, town or village upon presentation thereof, and when so received by said treasurer the same shall be paid over to said company or com-

panies, in equal proportion, having a membership of at least fifteen members for a period of eight months prior to the date of the certificate of the clerk, as provided in section 2462, and having the management of at least one steam, hand or fire engine, hook and ladder truck or hose cart, upon the written order of such company or companies, approved by the city council, trustees or other governing body of such city, town or village; provided, that in cities, towns and villages having a paid fire department, the amount so received by the city, town or village treasurer shall be placed in a fund to be disbursed by the city council, trustees or other governing body of such city, town or village in maintaining such fire department.

**§ 2465. Qualification of fire department.** No city, town or village shall be entitled to any of the benefits arising from this article unless the fire department shall have been in actual existence eight months prior to the filing of the certificate required by section 2462, and unless such fire department shall have had for such period as a part of its equipment, at least one steam, hand or other fire engine or hook and ladder truck or hose cart, with a membership of at least fifteen persons for said period of eight months. § 4, c. 53, 1887.

**§ 2466. Failure to file certificate a waiver.** If the certificate required by section 2462 is not filed with the auditor on or before the thirty-first day of October in each year, the city, town or village so failing to file such certificate shall be deemed to have waived and relinquished its right for such year to the appropriation herein provided for. § 5, c. 53, 1887.

#### ARTICLE 10. — FREE LIBRARIES.

**§ 2467. Library fund, how provided.** The city council of each city not exceeding in population fifty thousand inhabitants, and each village or township board of every village and township containing over five hundred inhabitants, shall have power to establish and maintain a public library and reading room, and for such purpose may annually levy and cause to be collected as other taxes are collected a tax not exceeding one mill on each dollar of the taxable property of such city, village or township, to constitute the library fund, which fund shall be kept separate and apart from the other money of the city, village or township by the treasurer thereof, and the same shall be used exclusively for such purpose; provided, that no library shall be so established without first receiving the approval of a majority of the electors of such city, village or township, voting on such question at any general election at which it may be submitted to a vote. § 1, c. 56, 1887.

**§ 2468. Library managed by board of directors.** For the government of such library and reading room there shall be a board of five directors appointed from the citizens of such city, village or township, including both males and females, who shall be appointed by the board of education or school board of such city or village, or where there is no incorporated city or village then by the board of supervisors of such township; and there shall be one member of such board of education or school board or board of supervisors appointed as one of the directors of such library and reading room. Such directors shall hold their office for two years from the first day of July in the year of their appointment and until their successors are appointed, but upon their first appointment they shall divide them-

selves at their first meeting by lot into two classes, and two of such directors shall hold for one year and the remaining three for two years, and thereafter there shall be appointed in each year the requisite number to fill the vacancies caused by the expiration of the terms of those going out of office in such year. All vacancies shall be immediately reported to and filled by such board of education, school board or board of supervisors, and if for an unexpired term, for the residue of the term only. No compensation whatever shall be paid or allowed any director in such official capacity.

§ 3, c. 56, 1887. **§ 2469. Duties and powers of board.** Said directors shall immediately after their appointment meet and organize by electing from their number a president, secretary and librarian. They shall make and adopt such by-laws, rules and regulations relating to the duties of officers and for the management of the library and reading room as may be expedient, not inconsistent with this article. They shall have the exclusive control of the expenditures of all moneys collected for or contributed to the library fund, and the supervision, care and custody of the library property, rooms or buildings constructed, leased or set apart for that purpose; and such money shall be drawn from the treasury by the proper officers upon vouchers of the board of directors without being otherwise audited. They may with the approval of the board of education or school board or board of township supervisors aforesaid, without which no lease, purchase or contract therefor shall be valid, build, lease or purchase an appropriate building and purchase a site therefor, not however employing in such purchase or building more than one-half of the income in any one year.

§ 4, c. 56, 1887. **§ 2470. Library free under rules established by board.** Every library and reading room established under this article shall be forever free for the use of the inhabitants of the city, village or township where located, always subject to such reasonable rules and regulations as the board of directors may deem necessary to adopt and publish to render the use of said library and reading room of the greatest benefit, and the board may exclude from the use of said library and reading room any and all persons who shall willfully violate such rules.

§ 5, c. 56, 1887. **§ 2471. Board to make annual report.** The board of directors shall make an annual report to the said board of education or school board or board of supervisors stating the condition of the library and property, the various sums of money received from all sources, and how much money has been expended and for what purpose, the number of books and periodicals on hand, the number added by purchase or gift during the year, the number lost and loaned out, the character and kind of books contained in the library, with such other statistics, information and suggestions as they may deem of general interest.

§ 6, c. 56, 1887. **§ 2472. Donations, how and to whom made.** All persons desirous of making donations of money, books, personal property or real estate for the benefit of such library shall have the right to vest the same in the board of directors, to be held and controlled by such board when accepted for the use of such library and reading room, and as to such property said board shall be held and considered to be special trustees.

§ 7, c. 56, 1887. **§ 2473. City council or trustees to appropriate funds, when.** To aid and facilitate the organization of a library in any city, village or township as in this article provided, where the same is re-



quired by the people thereof, and where in any city the sum of four hundred dollars or more shall have been donated and deposited with the city treasurer for that purpose, and to any village or township where the sum of one hundred and fifty dollars or more shall have been donated and deposited with the village or township treasurer for the benefit of such library, and also where such amount shall prior to the passage of this code have been donated and expended for the purchase of a library existing in any such city, village or township, the city council of such city is authorized and it shall be its duty to appropriate two hundred dollars from the general fund of such city for such library, for which amount a warrant shall be drawn on the city treasurer; and the board of trustees of such village or the board of supervisors of such township are authorized and it shall be their duty to appropriate one hundred dollars from the general fund of such village or township for such library, for which amount a warrant shall be drawn on such village or township treasurer; provided, that in the case of any library association now existing it shall first agree to turn over to the library and reading room thus established all books, periodicals and other property. The treasurer of such city, village or township shall accept such warrant and apply the proceeds from the sale of the same to the library fund, which together with the amount donated shall be held subject to the order of the board of directors for such library; and the payment of such warrants shall be provided for in the next assessment of taxes in such city, village or township, and such library may be organized without submitting the same to a vote as provided in section 2467.

ARTICLE 11. — BONDS OF MUNICIPAL CORPORATIONS.

§ 2474. **Bonded indebtedness, for what incurred. Limit of.** Any city or municipal corporation in this state may incur a bonded indebtedness for the purpose of erecting public school buildings and other buildings for city purposes, purchasing fire apparatus, putting in waterworks, sinking public wells or cisterns and putting in sewers and improving streets, which said indebtedness, together with the indebtedness which then exists shall not, except as otherwise provided, exceed five per cent of the assessed valuation of the taxable property in such city or municipal corporation as shown by the return of the assessor for the year next preceding the time at which such indebtedness shall be incurred.

§ 1. c. 16, 1887.  
§ 1. c. 97, 1890.

§ 2475. **Bonds, how issued. Election.** The bonds issued for the purposes mentioned in the last section shall be issued by the city council or board of trustees of any city or municipal corporation only upon a majority vote of the qualified electors of such city or municipal corporation voting thereon at an election regularly called for that purpose and in accordance with the provisions of the charter of such city or municipal corporation governing the issuance and sale of bonds; provided, that in all cities and municipal corporations where the charter does not provide the manner of calling and holding an election for the purpose aforesaid, a special election shall be called and held as herein provided, or such question may be submitted at any annual election. The city council or board of trustees at any regular meeting thereof may decide to call a special election to vote bonds for any of the purposes stated in section 2474, and they shall give at least fifteen days' public notice of such election by at least two publications thereof in a weekly newspaper published therein, or if

§§ 2,3, c.16, 1887.

there is no such newspaper then by posting such notice in five public places in such city. Such notice shall state the amount and denomination of the bonds to be voted for, the rate of interest thereof, the purpose for which such bonds are to be issued, the form of the ballots to be used and the time and place of holding such election. The judges and clerks shall be appointed and the election shall be conducted as provided by the charter of said city for conducting annual elections, and the returns shall be canvassed and in like manner returned. This article shall not be construed to limit or restrict the powers already conferred by any special charter upon the council of any city or municipal corporation. The bonds voted as provided for in this article shall be sold at not less than par value.

ARTICLE 12. --- REFUNDING CITY BONDS.

§ 1, c. 32, 1893.  
am'd.      **§ 2476. Refunding authorized.** Each incorporated city in this state is authorized and empowered, by and through its city council, when deemed in the judgment of said council to be to the best interests of the city, to issue its negotiable bonds in the name of the city for the sole purpose of funding the outstanding indebtedness of such city, represented by the city warrants, bonds or orders of such city existing against the city, which is at the time due and payable, or is about to become due and payable, or whenever said indebtedness can be refunded at a lower rate of interest than the then existing rate of interest on said indebtedness.

§ 2, c. 32, 1893.      **§ 2477. Bonds, denominations, interest.** Each bond issued under the provisions of this article shall recite upon its face that it is so issued. Such bonds shall be in denominations of not less than five hundred dollars nor more than one thousand dollars; shall severally show and bear the date of their issue and the date when payable, and shall be made payable in not less than five years nor more than twenty years from their date; shall be made payable to the purchaser or bearer and made payable anywhere in the United States; shall bear interest not exceeding the rate of six per cent per annum, payable annually or semiannually as may be agreed upon, and shall have interest coupons attached. Said bonds shall be engraved or lithographed on bond paper, and said bonds, and each of said coupons shall be signed by the mayor and attested by the city clerk or auditor of the city in whose name they are issued, and to each bond, but not to the coupons, the seal of such city shall be affixed.

§ 3, c. 32, 1893.      **§ 2478. Sale of bonds.** Such bonds may be sold by the city council at not less than their par value, and the proceeds thereof shall be applied solely to the payment of the outstanding indebtedness of such city represented by city warrants, bonds or orders which are authorized to be funded under the provisions of section 2476; or said bonds issued as herein provided may be exchanged at not less than par value for not less than an equal amount, at par value, of such outstanding bonds, warrants or orders of said city as are authorized to be funded under the provisions of section 2476, and when such exchange shall be made said outstanding bonds, warrants or orders so paid by the issue of bonds as herein provided, shall be marked respectively, "paid by bond No. . . . (stating number of such bond)," and shall be retained by the city treasurer until his settlement with the city council, and shall then be compared with the new bond

registered, and after such comparison shall be placed in the custody of the city clerk or auditor whose duty it shall be to preserve the same.

§ 2479. **Record of bonds.** The bonds issued as herein provided shall before delivery thereof to the purchaser be presented by the city clerk or auditor to the city treasurer who shall register them in a book to be kept for that purpose and known as the "bond register," wherein he shall enter the number of each of said bonds, its date, the date of its maturity, its amount and rate of interest and to whom and where payable. § 4, c. 32. 1883.

§ 2480. **Tax for interest. Sinking fund.** The city council shall, each year, levy upon the taxable property in the city a sufficient tax to pay the interest on such bonds as the same shall accrue and also, within a reasonable time before the maturity of said bonds, a sufficient tax to provide a sinking fund for the payment of such bonds at maturity. § 5, c. 32. 1883.

§ 2481. **Duty of treasurer.** On presentation of such bonds and the several coupons thereto attached at their maturity, respectively, it shall be the duty of the city treasurer to pay the same out of any funds in his hands applicable thereto and to cancel the same by writing or stamping across the face of each bond or coupon so paid, "canceled by payment this....day of..... (inserting the date of such payment.)" § 6, c. 32. 1883.

§ 2482. **Bonds negotiable.** All bonds issued in substantial conformity to the provisions of the preceding six sections shall in law be considered negotiable. § 7, c. 32. 1883.

ARTICLE 13.—REFUNDING BONDED SCHOOL INDEBTEDNESS.

§ 2483. **Bonds may be refunded.** All bonds heretofore issued by any city or by or under the authority of the board of education of any city in this state for school or school house purposes may be refunded in the discretion of said board in the manner hereinafter provided, whenever there is not sufficient money in the treasury of such city applicable thereto, to pay such bonds. § 1, c. 12. 1887.

§ 2484. **Denomination of bonds.** Said bonds shall be in denominations of not less than one hundred nor more than one thousand dollars, shall be numbered consecutively from one upward, shall bear the date of their issue, shall be made payable to the purchaser or bearer, shall be payable ten years from date, and shall bear interest at a rate not exceeding seven per cent per annum payable annually, with interest coupons attached, and principal and interest shall be made payable at such place as may be designated by the board of education. The bonds and each coupon shall be signed by the mayor and attested by the city clerk or auditor under the seal of the city. Said bonds shall be printed, engraved or lithographed on bond paper, and a duly authenticated copy of this article shall be printed on the back of each bond. § 2, c. 12. 1887.

§ 2485. **Board of education to levy tax.** The board of education shall levy each year upon the taxable property of such city a tax sufficient to pay the interest on said bonds as the same accrues, and after five years from the date of said bonds an annual sinking fund tax sufficient for the payment of said bonds at maturity, which taxes shall become due and be collected the same as other city taxes. § 3, c. 12. 1887.

§ 4. c. 12, 1887.

§ 2486. **Bonds, how executed.** The refunding of indebtedness and the issuance of bonds provided in this article shall be under the control and direction of the board of education, and a resolution of said board directing the execution of such bonds and specifying the number and amount of each bond shall authorize and require the mayor and city clerk or auditor to execute the same in the manner herein provided, and deliver the bonds so executed to the board of education, who shall provide for the sale and negotiation thereof or for the exchange of said bonds for outstanding bonds authorized to be refunded under this article, as they may deem best; provided, that such refunding bonds shall not be sold or exchanged at less than par value. Both principal and interest of said bonds shall be paid by the city treasurer by warrants drawn upon the funds created therefor and issued under the direction of the board of education. A duly certified copy of the resolution of the board of education authorizing and directing the execution of such bonds by the mayor and city clerk or auditor shall be printed on the back of each bond. A register of all bonds so executed shall be made by the city clerk or auditor and kept in his office as a public record, showing the number, date, amount, interest, name of payee and when and where payable, of each and all bonds executed under the provisions of this article. And after such outstanding bonds shall have been so refunded the same shall be placed in the hands of the city clerk or auditor after having had first marked across the face thereof in red ink the words "refunded bond;" and the city clerk or auditor shall thereupon make a record of each bond in the same manner provided herein for bonds issued under this article and at the next regular meeting of the city council shall cancel and burn said bonds in the presence of the city council and make a record of such action in the proceedings of the council.

ARTICLE 14.—TAXES IN CERTAIN CORPORATIONS.

§ 1. c. 139, 1887.

§ 2487. **Interest fund.** Any city, town or village in this state having not less than three thousand inhabitants is authorized and empowered through its proper officers to levy and collect taxes not exceeding twelve mills on the dollar of the assessed valuation of said city, town or village, for the purpose of creating an interest fund with which to pay interest upon the existing bonded indebtedness of such municipality, including bonds, if any, issued under the direction of the respective boards of education therein. If any officer of such municipality shall use the moneys collected by virtue of this section for any other purpose than that expressed herein, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars or imprisoned in the county jail not less than thirty days nor more than one year.

§ 2. c. 139, 1887.

§ 2488. **Sinking fund.** They may also levy and collect taxes not exceeding four mills on the dollar for the purpose of creating a sinking fund to pay the bonds of the municipality as the same may mature; and the proper officers of the municipality may invest the money in said fund in interest bearing securities of the state or of any organized county therein or of the municipality, and shall in no other manner dispose of the money in said fund, and if any officer of such municipalities shall use the money in said fund in any other

manner than as provided in this section he shall be guilty of a misdemeanor.

§ 2489. **For school purposes.** They may also levy and collect taxes for school purposes not to exceed twenty mills on the dollar, the taxes so levied and collected to be kept in a fund to be called the school fund to be expended under the direction of the board of education. § 3, c. 139, 1887.

§ 2490. **For other municipal purposes.** They may also levy and collect taxes not exceeding twenty mills on the dollar for all other municipal purposes in any one year, on all taxable property within said municipality, and taxes so levied and collected shall be kept in a fund to be called the general fund. § 4, c. 139, 1887.  
§ 1, c. 98, 1890.

§ 2491. **Special assessments for sidewalks.** They may also levy and collect special assessments for sidewalks and street improvements as hereinafter provided, and the money so collected shall be kept in a fund called the special assessment fund. § 5, c. 139, 1887.

§ 2492. **Limitation of indebtedness.** It shall be unlawful for the officers of such municipality to incur any greater indebtedness in any one year than three thousand dollars in excess of the taxes levied for that year, unless authorized and directed so to do by a vote of the electors of such municipality at an election held for that purpose. Any officer or officers contracting the same shall be guilty of a misdemeanor, and if any officer of said municipality shall issue any evidence of such indebtedness he shall be guilty of a misdemeanor. § 6, c. 139, 1887.

ARTICLE 15.—COLLECTION OF CITY TAXES.

§ 2493. **City property, how assessed.** The assessors of the several incorporated cities of the state having city assessors, shall make out and deliver to the county auditors of their respective counties the assessment roll of the said city or cities at the time and in the manner provided by the general laws of the state for county and township assessors; provided, that in all incorporated cities of this state, whether incorporated under special acts, or otherwise, not having city assessors, the assessment roll of all property subject to taxation in any such city made and equalized for county purposes shall be and constitute the assessment roll for said city and the county auditor of the county in which any such city is situated shall, as soon as said assessment roll is completed, certify to the city council of every such city within his county the aggregate amount of the valuation of the taxable property in any such city as shown by said assessment roll; and provided, further, that all taxes in any such city levied before the passage and approval of this code shall be collected as now provided by law or ordinance. § 1, c. 142, 1887.  
§ 1, c. 27, 1888.

§ 2494. **Duty of city council.** The city council of such cities shall on or before the first Monday in August in each year make the tax levy for the current fiscal year and fix the rate of taxation upon property in such city, and the clerks of said cities shall forthwith transmit the same to the county auditor of such county or counties. § 2, c. 142, 1887.

§ 2495. **Duty of county auditor.** It shall be the duty of the county auditor in making out the tax list for said year to place the amount of said city taxes in accordance with said levy in separate columns in the lists of both personal property and lands, opposite the respective names and parcels of land on said lists. § 3, c. 142, 1887.

§ 4, c. 142, 1887.  
§ 1, c. 29, 1889. **§ 2496. Duty of county treasurer.** The county treasurer of such county shall thereupon collect said taxes in the same manner as a part of the general taxes for that year, and shall pay the same over to the city treasurer of such city or cities as fast as collected, and shall take the city treasurer's voucher therefor; and the county treasurer shall retain from the moneys collected for such city or cities, as a fee to be turned over to the county, one per cent of all such moneys collected and no more.

§ 5, c. 142, 1887. **§ 2497. Salaries of city treasurers.** The city council of all such cities shall have authority to regulate and fix the compensation and salaries of city treasurers within their respective cities, whether such cities have heretofore had such power under their charters or not, and such salaries shall in no case exceed six hundred dollars.

§ 6, c. 142, 1887. **§ 2498. Does not apply to taxes for special improvements.** This article shall not apply to taxes levied by such cities for special improvements therein.

ARTICLE 16. — ROAD AND BRIDGE TAXES.

§ 1, c. 147, 1887. **§ 2499. Road funds to be turned over.** All road taxes collected as personal taxes from residents of any incorporated city, town or village, and all road taxes collected on account of real or personal property situated within any incorporated city, town or village by the treasurer of the county in which such city or town is located, shall be turned over quarterly by such treasurer to the treasurer of such incorporated city, town or village to be expended under the direction of the city council of such city or of the board of trustees of such town or village, as the case may be, in the improvement of the streets or bridges thereof or of the roads approaching thereto.

§ 1, c. 39, 1890. **§ 2500. Bridge funds to be turned over to city.** The county treasurer of each county wherein any city or municipal corporation shall have constructed a bridge or shall hereafter construct a bridge over any navigable stream shall pay to the city treasurer of such city or municipality whereby such bridge has been constructed or is about to be constructed, all money in the county treasury or which may come into the county treasury in the bridge fund of such county, which may have been or shall be levied, assessed and collected from persons and property, or either, in said city or municipality.

ARTICLE 17. — LOCAL IMPROVEMENTS IN CERTAIN CITIES.

§ 1, c. 96, 1890. **§ 2501. Assessments for.** The city council of any city not organized under the general law for the incorporation of cities shall have power to make assessments for local improvements on property adjoining or benefited thereby, including extension of water mains in such cities, owning and operating exclusively a public system of waterworks, to collect the same in the manner hereinafter provided, and to fix and determine and collect penalties for nonpayment of any such special assessment and taxes.

§ 2, c. 96, 1890. **§ 2502. Improvements, how made.** When the city council of such city shall deem it necessary to open, widen, extend, grade, pave, macadamize, bridge, curb, gutter, drain or otherwise improve any street, alley, lane or highway, or other public grounds within the city limits, or extend or improve any public system of waterworks exclusively owned and operated by the said city for which a special

assessment is to be levied, as herein provided, the city council shall, by resolution, declare such work or improvement necessary to be done, and such resolution shall be published for three consecutive weeks, at least once a week, in the official newspaper of the city, and unless a majority, in value, of the owners of the property liable to be assessed therefor, shall, within twenty days after the expiration of such publication, file with the city clerk or auditor a written protest against such improvement, then the city council shall have power to cause such improvement to be made and to contract therefor, and to levy and collect the assessment upon the property so benefited in the manner and at the time other taxes are collected, and all work done under this section shall be let by contract to the lowest responsible bidder therefor.

ARTICLE 18. — PARKS AND PUBLIC GROUNDS.

**§ 2503. Cities may acquire real estate for.** Cities and villages in this state are empowered and authorized to receive by gift or devise, real estate within their corporate limits or within five miles thereof for purposes of parks or public grounds. Such real estate shall be vested in the city or village upon the conditions imposed by the donors, and upon the acceptance thereof by the mayor and city council or the board of trustees, the jurisdiction of the city council or board of trustees shall be extended over such real estate. The city council and board of trustees of villages shall have power to enact by-laws, rules and ordinances for the protection and preservation of any real estate acquired as herein contemplated, and to provide suitable penalties for the violation of any such by-laws, rules or ordinances. The police powers of any city or village that shall acquire any real estate as herein contemplated shall be at once extended over the same by virtue of this article. § 1, c. 99, 1890.

ARTICLE 19. — TOWN SITES LOCATED ON PUBLIC LANDS.

**§ 2504. Town site, who may make entry.** Whenever any portion of the public lands of the United States has been or shall be settled upon and occupied as a town site, it shall be lawful whenever requested by a majority of the occupants or owners of the lots within the limits of the town or village, for the corporate authorities of the town or village if incorporated, and if not incorporated then for the county judge of the county in which such town may be situated, to enter at the proper land office the land so settled upon and occupied, and hold the same in trust for the several use and benefit of the occupants thereof and those holding by deed or otherwise, according to the respective interests. § 1, c. 135, 1881.

**§ 2505. Entry fee, how raised.** If at the time any petition is presented as provided for in the preceding section there is not in the treasury of the town, money sufficient to pay for the land settled upon and occupied, the corporate authorities or the county judge, as the case may be, may raise by subscription or otherwise sufficient funds to pay for said land and costs of entering the same, and any and all sums so advanced for such purpose shall be repaid in the manner provided in section 2508. § 2, c. 135, 1881.

**§ 2506. Disposition of property.** When the corporate authorities of any city or town, or the county judge of any county in this § 3, c. 135, 1881.

state in which any city, town or village may be located, shall have entered at the proper land office the land or any part thereof so settled and occupied as the site of such city or town or village pursuant to and by virtue of the act of congress of the United States, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867, and acts amendatory thereto, it shall be the duty of such corporate authorities or county judge, his or their successors, to dispose of the trust so created and conferred by said act of congress in the manner hereinafter specified.

§ 4, c. 135, 1881. **§ 2507. Person making the entry to transfer to claimants.** Any such corporate authorities or county judge holding the title to any such lands in trust as declared in said act of congress shall, subject to the provisions of this article, by a good and sufficient deed of conveyance grant and convey the title to each and every block, lot, share or parcel of the same to the person, persons, associations or corporations who shall occupy or possess or be entitled to the right of possession or occupancy thereof, according to the several rights and interests of the respective claimants in or to the same as they existed in law or equity at the time of the entry of such lands, or to the heirs or assigns of such claimants. Every such deed of conveyance made by such corporate authorities or judge pursuant to the provisions of this article shall be so executed and acknowledged as to admit the same to be recorded.

§ 5, c. 135, 1881. **§ 2508. Expenses of entry and claims.** Immediately upon making the entry, and during sixty days thereafter, such corporate authorities or county judge shall proceed to itemize and pass upon the expenses of procuring said entry to be made, including the moneys paid at the land office for such entry, the costs of surveying and platting the town site, of attorney's fees, witness fees, recording plat and all other expenses necessary and incident to procuring the entry and perfecting the title, and for this purpose shall give notice to all persons having any claims for moneys advanced or services rendered to present and file a certified statement of the same within said sixty days, such notice to be given promptly after making the entry, and to be by publication for three weeks in some newspaper published in the county wherein the townsite is located, or if none is so published then in the newspaper published nearest thereto. Any person having or making any such claim who shall at the expiration of said sixty days have failed to file such verified statement of account shall be thereafter barred from presenting the same or recovering thereon. Upon the receipt of such verified statements of accounts they shall be duly filed by the said corporate authorities or county judge, and either allowed, rejected or allowed in part as in the judgment of such corporate authorities or county judge may be just and right, due notice of such allowance, rejection or allowance in part to be at once given to the person who filed such verified statement. Any person filing such statement or any lot owner feeling aggrieved at the decision of such corporate authorities or judge making such allowance, rejection or allowance in part of any claim so filed, may within thirty days after the decision appeal therefrom to the district court of the district wherein such city or town is located, such appeal to be taken upon notice to such corporate authorities or judge in the same manner and subject to the same restrictions as appeals from the board of county commissioners.



**§ 2509. Publication of notice of entry and claims awarded.** § 6, c. 135, 1881.  
 Immediately upon the expiration of sixty days after the first publication of said notice as hereinbefore provided, at the proper land office, the corporate authorities or county judge entering the same, his or their successors, shall give public notice thereof by publishing such notice in a newspaper published in the county in which such city or town is situated, or in case there is no newspaper published in such county then in the newspaper published nearest such city or town, and in the latter case where there is no newspaper published in said county, copies of such notice shall also be posted in not less than ten conspicuous places within the limits of said county; such notice shall be published not less than once a week for six consecutive weeks and shall contain an accurate description of the lands entered as the same is stated in the certificate of entry, and shall also contain a statement of the several amounts awarded and allowed for the expenses of procuring the entry and which will be assessed against the land constituting the townsite in executing the deeds therefor.

**§ 2510. Same.** The notice provided for in section 2508 shall direct that each and every person, association or corporation claiming to be an occupant or to have, possess or be entitled to the right of possession or occupancy of such lands or any lot, share or parcel thereof, shall within ninety days from the date of the first publication or posting of such notice, in person or by his or its duly authorized agent or attorney, sign a statement in writing containing an accurate description of the particular lot, lots, parcel or parcels of land in which he or it claims to have an interest; and the specified right, interest or estate so claimed therein, the character and value of the improvements thereon, and how occupied or possessed by such claimant, and for how long a time, and any other matter or thing illustrating or supporting such claimant's right to a deed of the tract so described, such statement to be verified by the affidavit of the person signing the same. § 7, c. 135, 1881.

**§ 2511. Statements of claimants to be recorded.** The statement of the claimant provided for in the preceding section shall, together with the accompanying affidavits, be delivered to the said corporate authorities or county judge within the time specified in said notice, and shall be by him or them filed and an abstract of the contents thereof, with the name of the claimant and date of filing, entered in a book to be kept for that purpose, which shall be known as "the record of claimants' statements." And all persons failing to furnish such statement as herein required within the time specified in said notice, except minors and insane persons, shall be forever barred of the right of claiming or recovering such lands or any interest or estate therein or any part or parcel thereof. § 8, c. 135, 1881.

**§ 2512. Conflicting claims, how treated.** Should any one or more persons, associations or corporations claim adversely the title to any lot or lots, parcel or parcels of land within the boundaries of such city or town, the person in possession, or if neither person is in actual possession, then the person first filing his application, shall be prima facie entitled to a deed of conveyance, and the person claiming adversely shall within said ninety days after the first publication of the notice provided for in section 2508, file with the corporate authorities or county judge a sworn statement as provided in section 2510, and at the same time a notice that he contests the statement and application for deed hitherto made, and expects at once to begin an

action in the district court to determine his right to the property; whereupon the corporate authorities or county judge must suspend action on such disputed lot or parcel of ground until a proper certificate is furnished that the dispute has been decided or abandoned. Such party or parties claiming adversely, and having filed such notice of contest, must within ten days thereafter begin an action in the district court for the purpose of determining the rights of all parties, in which action all persons claiming adversely to the plaintiff may be joined as parties defendant, and if not so, joined shall have the right to intervene. For the purposes of this section an action shall be deemed begun when a complaint has been filed in the office of the clerk of the court and a summons placed in the hands of a sheriff for service; provided, that personal service must be made or service by publication begun within sixty days thereafter. Upon the presentation of the clerk's certificate that no complaint has been filed and no action begun in accordance with the provisions of this section, the party aforesaid having the prima facie right shall be entitled to a deed of conveyance; and in case an action is begun the party recovering therein shall be entitled to a deed of conveyance upon presentation of a certified copy of the final judgment of the court in such action to the corporate authorities or county judge. Upon receiving the certificate aforesaid or the certified copy of judgment the same shall be filed and an abstract of the contents entered in the record of claimants' statements; and the corporate authorities or county judge shall thereupon execute deeds of conveyance to the party entitled to the same. All persons except minors and insane persons failing to file their notice of contest and to bring their action within the time herein prescribed shall be thereafter forever barred from setting up or asserting any claim, right or title to such lot or lots, parcel or parcels of lands so adversely claimed.

§ 10, c. 135, 1881.

**§ 2513. Extent of ground that may be claimed.** The amount of ground which any one claimant shall be entitled to receive a deed for in a single tract under the provisions of this article, unless said claimant or his grantors was in the actual peaceable possession of the same prior to its entry as herein provided for and had improved the same and is still in the occupancy thereof, may equal but not exceed two acres in extent; provided, that such ground is exclusively occupied by or in the possession of such claimant and has improvements thereon of not less than two hundred dollars in value. Such claimant shall also be entitled to a deed for each additional lot not exceeding in area twenty-five hundred square feet on which he may have substantial improvements of not less than one hundred dollars in value. When any claimant shall make application for a deed to more than one tract or parcel he shall file in addition to his own affidavit as above required the affidavits of at least two disinterested witnesses showing the nature, character and actual cash value of the improvements upon such additional lot or lots so claimed.

§ 11, c. 135, 1881.

**§ 2514. Expenses to be paid by claimant.** Each person shall upon filing an applicant's statement as herein provided be required to pay to the corporate authorities or county judge his proper and due proportion of the money lawfully expended in perfecting the title and procuring the entry of said land, including all streets, alleys, public grounds and parks, and all expenses necessarily incurred in making the survey and plat, for recording plat and publishing notices as required herein, such proportion to be determined

by the relation which the value, extent and area of such claimant's land bears to the whole amount of land claimed during the ninety days, and in addition thereto the sum of two dollars for the principal tract claimed and fifty cents for each additional lot of two thousand five hundred square feet claimed by the same person, association or corporation, as a fee for executing the trust, taking affidavits, filing and abstracting statements and affidavits, and executing and acknowledging the deed as required herein, which charges shall be in full payment for all expenses attending the execution of the trust. In case of appeals provided for in section 2508, the sum of one dollar shall be paid for a certified copy of statement of account filed and certificate of decision and award made; and pending such appeal and the review by the district court of any award or allowance of claims for expenses in procuring the entry of land, as provided for in section 2508, the corporate authorities or county judge must in making and apportioning expenses take care that their estimate is sufficient to meet the same and any possible increase made by the appellate tribunal, any surplus resulting from such estimate to be applied as herein provided. In case of any contest, and deposit of money as in this section provided by both parties, the corporate authorities or county judge shall after final judgment refund to the unsuccessful party all money so advanced by such party, except the sum of one dollar, which shall be retained as fees for taking and filing affidavits, statements, notice of contest, and certified copy of judgment.

**§ 2515. Deeds to be given.** After the expiration of ninety days from the date of the first publication of the notice required by section 2508 the corporate authorities or county judge shall proceed to award the lot or lots, parcel or parcels of land as provided in this article, and for that purpose shall as soon as practicable and as near as practicable in the order of the time of the filing of claimant's statements examine each claim, read proofs filed and hear additional testimony if deemed advisable, and if the claim is found to comply with the provisions of this article, and no adverse claim and notice of contest shall have been filed, such corporate authorities or judge shall proceed forthwith to make such claimant or claimants a good and sufficient deed of conveyance for such lot or lots or parcels of land so claimed.

§ 12, c. 135, 1891.

**§ 2516. Conveyance of unclaimed lots.** When any lots or parcels of land within the limits of any city or village shall remain unclaimed after the expiration of the time allowed by this article for the filing of claimants' statements, it shall be the duty of the corporate authorities or county judge to convey the lots or parcels of land so remaining unclaimed, by a good and sufficient deed, to the board of education of such city or village or to the said city or village for the use of schools, if either said board of education or said city or village may by law take and hold real estate for the use of schools, to be disposed of by such board of education for school purposes and for the exclusive use and benefit of the school district in which such city or village may be situated or which it may form under such directions and limitations as are provided by this article.

§ 13, c. 135, 1891.  
1, c. 114, 1883.  
1, c. 124, 1889.

**§ 2517. Sale, when.** If there is no such board of education, or if said city or village is not legally authorized to take and hold real estate for the use of schools, then the corporate authorities or county judge shall sell and dispose of the said unclaimed lots or parcels of lands so remaining for school purposes and for the exclusive use and

§ 14, c. 135, 1891.  
2, c. 114, 1883.  
2, c. 124, 1889.

benefit of the school district in which said city or village may be situated or which it may form under the directions, limitations and provisions contained in this article.

§ 3, c. 114, 1883.

**§ 2518. Unclaimed lands to be appraised.** The board of education, corporate authorities or county judge aforesaid shall appoint three competent and suitable freeholders of such city, town or village a board of appraisers whose duty it shall be to make a careful inspection and examination of all the unclaimed lots or parcels of land aforesaid, and upon each of such lots or parcels of land they shall affix a reasonable and just valuation, and upon the completion of their appraisalment they shall make and return a full and complete report of their proceedings and appraisalment to the board of education, corporate authorities or county judge, which said report shall contain a full schedule of each and every lot or parcel of land remaining unclaimed, giving an exact description of said lots by their numbers and the number of the block, and all parcels of land not so numbered shall be described by metes and bounds, and upon each lot or parcel of land separately they shall designate the valuation thereof as fixed by their appraisalment; said appraisalment and report shall be subscribed and sworn to by at least two of said appraisers.

§ 4, c. 114, 1883.

**§ 2519. Public sale of unclaimed lands.** The board of education, corporate authorities or county judge shall within thirty days after the receipt of the aforesaid report of said board of appraisers give public notice that all such unclaimed lots or parcels of land, or so much thereof as may be considered for the best interest of the school district, will be sold at public auction to the highest bidder for cash; said notice to be given by publication in not less than three newspapers of general circulation in the state and for a period of not less than thirty days immediately prior to such sale, specifying the time and place when said unclaimed lots or parcels of land will be sold, together with a description of the same as returned by the board of appraisers.

§ 5, c. 114, 1883.

**§ 2520. Bids. Private sale.** At the time and place appointed in such notice the board of education, corporate authorities or county judge shall offer for sale at public auction subject to competitive bids all the lots and parcels of land or so much thereof as may be considered for the best interest of the school district, returned by the report of said board of appraisers as unclaimed; provided, that no bid shall be received or lot or parcel of land sold for a less sum than the appraised valuation; and such sale shall continue open from day to day until all such lots or parcels of land, or so much thereof as may be considered for the best interest of the school district, shall have been offered for sale. Any lots or parcels of land remaining unsold at the close of such sale for want of bids equal to the appraised valuation thereof may thereafter be sold at private sale by such board of education, corporate authorities or county judge for a sum of money not less than the appraised valuation thereof, and not otherwise.

§ 6, c. 114, 1883.

**§ 2521. Purchaser shall pay for deed.** Any purchaser at such sale, in addition to the amount of purchase money paid for any lot, lots or parcel of land, shall pay to the board of education, corporate authorities or county judge the sum of two dollars as a fee for making, executing and acknowledging a deed of conveyance therefor, and all such lots or parcels of land purchased by any one person may

be conveyed to such purchaser in one deed, which fee shall be in full for all charges for conducting sale, giving notice, appointing appraisers, and other services.

**§ 2522. Proceeds of sale, how applied.** The proceeds derived from the sale of such lots or parcels of unclaimed land, after first paying the expenses of advertising, printing and a per diem of not more than three dollars per day to each member of the board of appraisers for the time actually and necessarily employed by them in making such appraisal and report as aforesaid, and other expenses actually and necessarily incurred in the proper conduct and management of such sale, shall be immediately turned over at the close of said sale by the board of education, corporate authorities or county judge to the treasurer of the school district, and by said treasurer placed to the credit of the school house fund of said school district, to be disbursed and applied only in the payment of outstanding bonds, warrants or other indebtedness against said school district, contracted or created in the erection or construction of school houses, procuring grounds or appurtenances therewith, if any such bonds, warrants or other indebtedness exist, otherwise to be applied and placed to the credit of the general school fund of the school district. § 7, c. 114, 1883.

**§ 2523. Surplus, how disposed of.** In case there should be found any surplus on hand over and above receipts for fees and awards for expenses arising from the conveyances of lots as provided in section 2514, then such surplus shall as soon as ascertained by the corporate authorities or county judge be accounted for and turned over to the treasurer of the school district wherein such city, town or village may be situated, to be by such school district treasurer placed to the credit of the school house fund, then to be disbursed and applied as herein provided for the disbursement of proceeds derived from the sale of unclaimed lots or parcels of land. § 8, c. 114, 1883.

**§ 2524. Expiration of term of person making entry of town site.** Whenever the term of office of any corporate authorities or county judge having made entry of a town site shall expire, or he or any one or more of said corporate authorities shall resign or be removed from office, he or they shall turn over all books and papers relative to such entry to his or their successor or successors in office, with a full report of the condition of the trust and receipts and disbursements thereunder, and thereafter the said trust shall be executed in every particular by such successor or successors. Any willful violation of the provisions of this article by the corporate authorities or county judge shall be a misdemeanor; any such corporate authorities or county judge willfully making out a deed to any person not entitled to receive the same shall be deemed guilty of a misdemeanor; and any such corporate authorities or county judge willfully misappropriating funds received by them in the execution of this trust shall be guilty of embezzlement. § 14, c. 135, 1881.

**§ 2525.** The provisions of this and the preceding chapter shall apply to and govern all towns heretofore incorporated.

## CHAPTER 31.

## TOWNSHIP GOVERNMENT.

## ARTICLE 1.—HOW ORGANIZED AND NAMED.

§ 1. sub-c. 1, c.  
112, 1883.

**§ 2526. Petition for organization of township.** Whenever a majority of the legal voters of any congressional township in this state containing twenty-five legal voters petition the board of county commissioners to be organized as a township under this article, such board shall forthwith proceed to fix and determine the boundaries of such new township and to name the same; and the board shall make a full report of all its proceedings in relation to laying off such township and file the same with the county auditor.

§ 2. sub-c. 1, c.  
112, 1883.  
§ 1. c. 50, Sp.  
1885.

**§ 2527. Fragment of township attached to adjoining township.** A fraction of a township may be attached by such board to an adjoining township or be divided between two or more townships or organized separately, according to the wishes of a majority of the legal voters to be affected thereby; and when rivers, lakes or creeks so divide a township as to make it inconvenient to do township business, such board may dispose of any fraction so formed by annexing the same to an adjoining township in the same county if it shall seem to it proper, whenever petitioned to do so by not less than two-thirds of the legal voters residing in such fraction, and the fact that any such petition is signed by two-thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction having knowledge of the fact; and townships having two or more villages or cities, each containing two hundred or more inhabitants, may petition the board of county commissioners for division; and whenever the board are so petitioned, it may, if it thinks the interest of such township will be subserved thereby, divide such townships in such manner as will best suit the convenience of the territory. And the board of county commissioners of any county lying west of the Missouri River may unite not less than four congressional townships into one civil township, or may add not more than three congressional townships to any congressional township already organized as a civil township, when petitioned by a majority of the legal voters affected thereby, if in the opinion of the board the best interests of such townships will be subserved thereby; provided, however, that at least twenty days' notice shall be given by the board of county commissioners to the chairman of the board of supervisors of each township affected by the change, before action is taken thereon; provided, further, that nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached, from any tax levied or assessed prior to such division being made; provided, also, that the portion of any township annexed to any other township and any village or city separated from any township under the provisions of this article, shall not be released from nor in any way discharged from the payment of any bonded or other indebtedness that may exist against the township from which separation has been made.

§ 3. sub-c. 1, c.  
112, 1883.

**§ 2528. Name of township.** Townships thus formed shall be named in accordance with the expressed wish of a majority of the legal voters residing therein, but if they fail to designate a name the board of county commissioners may select a name.

§ 2529. **First township meeting.** The board of county commissioners shall thereupon make out notices designating a suitable place for holding the first township meeting in each township, which shall be held within twenty days after the township is organized; and the county auditor shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township not less than ten days before the day set for such meeting. § 4, sub-c. 1, c. 112, 1883.

§ 2530. **County auditor transmits name to state auditor.** Each county auditor shall, within thirty days after such township is organized, transmit by mail to the state auditor an abstract of such report, giving the bounds of each township and the name designated; and the county auditor shall record in a book kept for that purpose a full description of each township. § 5, sub-c. 1, c. 112, 1883.

§ 2531. **When similar names are adopted by different townships.** If the state auditor on comparing the abstract of the reports from the several counties finds that any two or more townships have the same name he shall transmit to the county auditor of the proper county the name of the township to be altered; and the board of county commissioners shall at its next meeting thereafter adopt for such township some name different from those theretofore named, so that no two townships organized under this chapter shall have the same name, and when such name is adopted the county auditor shall inform the the state auditor as before directed. § 6, sub-c. 1, c. 112, 1883.

§ 2532. **Present boundaries to remain.** The boundary lines of each organized township shall remain as now established until otherwise provided by the board of county commissioners under authority of law. § 7, sub-c. 1, c. 112, 1883.

## ARTICLE 2.—DIVISION OF ORGANIZED TOWNSHIPS.

§ 2533. **Civil townships, how formed.** Any congressional township which has residing therein one hundred or more inhabitants and forms part of an organized civil township comprising two or more congressional townships, not a fractional, may be set apart and organized as a separate civil township in the manner herein provided and when duly organized shall have the same powers and privileges and be subject to the same liabilities and restrictions as other civil townships except as herein otherwise provided; but no civil township shall be so formed, under the provisions of this article, as to leave residing in the former township less than one hundred inhabitants. § 1, c. 30, 1895.

§ 2534. **Petition county commissioners. Notice published.** The legal voters residing in such congressional township may petition the board of county commissioners of the county in which it is situated, at any regular meeting of said board, to be set off as a separate civil township, upon at least thirty days' previous notice thereof, and of the time and place of application, which notice shall be published at least three times in the newspaper in which the proceedings of said board are published or, if there is none such, notice shall be posted in at least three public places in the proposed new township, and as many more elsewhere in the township affected thereby, one of which shall be at the place where the last election was held. § 2, c. 30, 1895.

§ 2535. **When board shall set off township. Election.** Upon presentation of such petition signed by a majority of the legal § 3, c. 30, 1895.

voters residing within such proposed township and due proof of notice as herein provided and of the further fact that the territory has the requisite number of inhabitants and the petition, the requisite number of competent signers as aforesaid, the board shall proceed to set off said congressional township as a separate civil township, and constitute the same an election precinct, and designate the place of holding elections and the time and place of holding the first township meeting therein and notice thereof shall be given as in other cases.

§ 4, c. 30, 1895.

**§ 2536. Proportional share of moneys. Liabilities.** The new township shall succeed to a proportional share of the moneys and other property of the former township and to a like share of its debts and liabilities existing at the time of the division, such proportion to be determined by the relative value of the property of the respective parts as shown by the last preceding assessment and the account shall be settled between them by the board of county commissioners at its next regular meeting after the organization of the new township from the best evidence obtainable and for that purpose said board shall have power to bring before it the necessary witnesses, books and papers upon subpoenas to be issued by the clerk of the district court upon request of the chairman, and the statement of such account shall be conclusive as between the respective townships unless appealed from as provided by law, but the enforcement of their respective obligations thereon must be left to the courts; provided, however, that no division of a civil township as herein provided shall operate to prevent the enforcement of obligations existing prior thereto to the same extent as if no division was made.

ARTICLE 3. — CORPORATE POWERS.

§ 8, sub-c. 1, c. 112, 1883.

**§ 2537. Powers of township.** Each township is a body corporate and has capacity:

1. To sue and be sued.
2. To purchase and hold lands within its limits and for the use of its inhabitants, subject to the powers of the legislative assembly.
3. To make such contracts and purchase and hold such personal property as may be necessary for the exercise of its corporate or administrative powers.
4. To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interests of its inhabitants.

§ 9, sub-c. 1, c. 112, 1883.

**§ 2538. Powers of limited.** No township shall possess or exercise any corporate powers except such as are enumerated in this chapter, or specially given by law or necessary to the exercise of the powers so enumerated or granted.

§ 10, sub-c. 1, c. 112, 1883.

**§ 2539. Actions to be in corporate name.** All acts or proceedings by or against a township in its corporate capacity shall be in the name of such township; but each conveyance of land within the limits of such township, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the township by name.

ARTICLE 4. — ANNUAL TOWNSHIP MEETINGS.

§ 11, sub-c. 1, c. 112, 1883.

**§ 2540. Annual meeting, when held.** The citizens of the several townships of this state qualified to vote at general elections



shall annually assemble and hold township meetings in their respective townships on the first Tuesday of March, at such place in each township as the electors thereof at their annual township meetings, from time to time, appoint; and notice of the time and place of holding such meetings shall be given by the township clerk by posting up written or printed notices in three of the most public places in such township at least ten days prior to such meetings; provided, that before any change of place of holding meetings is made, notice of such contemplated change may be given by any member of the township board to the township clerk, who shall in his regularly printed or written notices, as above provided, incorporate the special notice of the contemplated change of place of holding such meetings.

§ 2541. **What officers shall be chosen.** There shall be elected at the annual township meeting in each township, three supervisors, one of whom shall be designated on the ballots as chairman, one township clerk, one treasurer, one assessor, two justices of the peace, two constables and one overseer of highways for each road district in such township, but justices of the peace and constables shall be elected only once in two years, except to fill vacancies. § 12, sub-c. 1. c. 112, 1883.

§ 2542. **Powers of electors.** The electors of each township have power at the annual township meeting: § 13, sub-c. 1. c. 112, 1883.

1. To determine the number of pound masters and the location of pounds.

2. To select such township officers as are required to be chosen.

3. To direct the institution or defense of actions in all controversies where such township is interested.

4. To direct such sums to be raised in such township for prosecuting or defending such actions as they may deem necessary.

5. To make all rules and regulations for impounding of animals.

6. To impose such penalties on persons offending against any rule or regulation established by the township, as they think proper, not exceeding ten dollars for each offense except as herein otherwise provided.

7. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the township.

8. To vote to raise such sums of money for the repair and construction of roads and bridges, for the support of the poor, and for other necessary charges, as they deem expedient; provided, that they may at their annual meeting direct such an amount of the poll or road tax of the township to be expended on the highways in an adjoining township as they deem conducive to the interests of the township, which labor and tax shall be expended under the direction of the supervisors of the township furnishing the same; provided, further, that where more than one entire congressional township is included within an organized township, the poll and road tax raised within the limits of each of such congressional townships shall be expended within such congressional township, unless raised to be expended outside of such organized township in an adjoining township.

#### ARTICLE 5. — SPECIAL MEETINGS.

§ 2543. **Special meetings held, when.** Special meetings may be held for the purpose of electing township officers to fill vacancies that occur, also for the purpose of transacting any lawful busi- § 13, sub-c. 1. c. 112, 1883.

ness, whenever the supervisors, township clerk and justices of the peace, or any two of them, together with at least twelve freeholders of the township file in the office of the township clerk a written statement that a special meeting is necessary.

§ 17, sub-c. 1. c.  
112, 1883.

§ **2544. Clerk to give notice of meeting.** Each clerk with whom such statement is filed as required in the preceding section, shall record the same and immediately cause notice to be posted up in five of the most public places in the township, giving at least ten days' notice of such special meeting; and if there is a newspaper published in the township he shall cause a copy of such notice to be published therein at least three days before the time appointed for such meeting.

§ 18, sub-c. 1. c.  
112, 1883.

§ **2545. What notice must specify.** Each notice given for a special meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting the notice shall specify in what office vacancies exist, how they occurred, who was the last incumbent and when the term of each office expires.

#### ARTICLE 6. — MODE OF CONDUCTING TOWNSHIP MEETINGS.

§ 19, sub-c. 1. c.  
112, 1883.

§ **2546. Organization of meeting.** The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual or special meeting, shall be called to order by the township clerk, if present; in case he is not present then the voters may elect by acclamation one of their number chairman and three of their number judges of such meeting, who shall be duly sworn and be judges of the qualifications of township electors. They shall then proceed to choose one of their number to preside as moderator of such meeting. The clerk last before elected shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction and all rules and regulations made by the meeting. If the clerk is absent, then some person shall be elected to act as clerk of the meeting.

§ 20, sub-c. 1. c.  
112, 1883.

§ **2547. Duty of moderator. Reconsideration of vote.** At the opening of each meeting, the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator, and no proposition to reconsider any vote shall be entertained at any meeting unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at township meetings shall be determined by a majority of the electors voting; and the moderator shall ascertain and declare the result of the votes on each question.

§ 21, sub-c. 1. c.  
112, 1883.

§ **2548. Proclamation of opening and closing polls.** Before the electors proceed to elect any township officer, proclamation shall be made of the opening of the polls by the moderator, and proclamation shall in like manner be made of the adjournment, and of the opening and closing of the polls, until the election is ended.

§ 22, sub-c. 1. c.  
112, 1883.

§ **2549. Who are voters.** No person shall vote at any township meeting unless he is qualified to vote at general elections, and

has been for the last ninety days an actual resident of the township wherein he offers to vote.

§ 2550. **Challenge to voter.** If any person offering to vote at any election or upon any question arising at such township meeting is challenged as unqualified, the judges of the meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the township meeting. § 23, sub-c. 1, c. 112, 1883.

§ 2551. **Certain officers to be elected by ballot.** The supervisors, treasurer, township clerk, assessor, justices of the peace, constables and overseer of highways in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays or by a division, as the electors determine. § 24, sub-c. 1, c. 112, 1883.

§ 2552. **All candidates on one ballot.** When the electors vote by ballot all the candidates voted for shall be named on one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents. § 25, sub-c. 1, c. 112, 1883.

§ 2553. **Poll list.** When the election is by ballot a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received. § 26, sub-c. 1, c. 112, 1883.

§ 2554. **Judges to deposit ballots.** When the election is by ballot one of the judges shall deposit the ballots in a box provided for that purpose. § 27, sub-c. 1, c. 112, 1883.

§ 2555. **Judges to canvass the votes.** At the close of every election by ballot the judges shall proceed publicly to canvass the votes, which canvass when commenced shall continue without adjournment or interruption until the same is completed. § 28, sub-c. 1, c. 112, 1883.

§ 2556. **Manner of canvassing.** The canvass shall be conducted by taking one ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list, and if there are any left in the box they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected; provided, that if two or more persons have an equal and the highest number of votes for any office, the judges of election shall at once publicly by lot determine who of such persons shall be declared elected. If on opening the ballots two or more ballots are found to be so folded that it is apparent that the same person voted them the board shall immediately destroy the ballots. § 29, sub-c. 1, c. 112, 1883.

§ 2557. **Result to be announced.** The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings to be kept by him as before required, which shall be publicly read by him to the meeting, and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter. § 30, sub-c. 1, c. 112, 1883.

§ 2558. **Minutes to be filed.** The minutes of the proceedings of each meeting, subscribed by the clerk of said meeting and by the judges, shall be filed in the office of the township clerk within two days after such meeting. § 31, sub-c. 1, c. 112, 1883.

§ 32, sub-c. 1. c. 112, 1883.     **§ 2559. Notice of election.** The clerk of each township meeting shall within ten days thereafter transmit to each person elected to any township office, whose name is not entered on the poll list as a voter, a notice of his election.

§ 33, sub-c. 1. c. 112, 1883.     **§ 2560. Proceedings when meeting fails to elect.** In case any township refuses or neglects to organize and elect township officers at the time fixed by law for holding annual township meetings, twelve freeholders of the township may call a township meeting for the purpose aforesaid, by posting notices in three public places in such township, giving at least ten days' notice of such meeting; which notice shall set forth the time, place and object of such meeting; and the electors when assembled by virtue of such notice shall possess all the powers conferred upon them at the annual township meeting. In case no such notice is given as aforesaid within thirty days after the time for holding the annual meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of the township, filed in the office of the clerk of the board, setting forth the facts, at any regular or special meeting of the board, appoint the necessary township officers of such township, and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same power and be subject to the same duties as if they had been duly elected.

ARTICLE 7. — BY-LAWS.

§ 14, sub-c. 1. c. 112, 1883.     **§ 2561. By-laws.** No by-law made by any township shall take effect before the same is published by posting copies thereof in three of the most public places in the township; and such by-laws, duly made and so published, are binding upon all persons coming within the limits of the township as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent township meeting.

§ 15, sub-c. 1. c. 112, 1883.     **§ 2562. Clerk shall post by-laws.** The township clerk shall post in three of the most public places in his township, copies of all by-laws made by such township, and shall make an entry in the township records of the time when, and the place where such by-laws were posted.

ARTICLE 8. — QUALIFICATION OF OFFICERS.

§ 34, sub-c. 1. c. 112, 1883.     **§ 2563. Voter is eligible to office.** Each person qualified to vote at township meetings is eligible to any township office.

§ 35, sub-c. 1. c. 112, 1883.     **§ 2564. Officers to take oath.** Each person elected or appointed to the office of supervisor, township clerk, assessor, treasurer or constable, shall, within ten days after he is notified of his election or appointment, take and subscribe, before the township clerk or justice of the peace, the oath prescribed in section 211 of the constitution. Such oath shall be administered without fee and certified by the officer before whom it is taken, with the date of taking the same.

§ 36, sub-c. 1. c. 112, 1883.     **§ 2565. Certificate of oath to be filed.** The person taking such oath shall immediately and before entering upon the duties of his office file the certificate of such oath in the office of the township clerk.

§ 2566. **Justice to take oath and give bond.** Each person elected or appointed to the office of justice of the peace shall within ten days after receiving notice thereof take and subscribe before any officer authorized to administer oaths the oath prescribed in section 211 of the constitution. Such justice shall also execute a bond as provided in chapter 6 of this code and file the same with the clerk of the district court of the proper county for the benefit of any person aggrieved by the acts of such justice, and any person aggrieved may maintain an action on said bond in his own name against such justice and his sureties. § 37, sub-c. 1. c. 112, 1883.

§ 2567. **Certificate to official acts of justice.** The bond and oath of office of a justice of the peace, filed in the office of the clerk of the district court for the county or judicial subdivision, are sufficient authority for said clerk to certify to the official acts and signature of such justice of the peace. § 94, c. 59, 1879.

§ 2568. **Jurisdiction of township justices.** All justices of the peace of any township in this state shall have the same power and jurisdiction in their respective counties as is now or hereafter may be conferred upon justices of the peace under the provisions of the justices' code, and all amendments made or which may be hereafter made to said code. § 1, c. 129, 1881.

§ 2569. **Proceedings before township justices.** The civil and criminal proceedings before township justices of the peace shall be governed and controlled by the justices' code, and the code of criminal procedure and the amendments made or which may hereafter be made to said codes. § 2, c. 129, 1881.

§ 2570. **Bond of treasurer.** Each person elected or appointed to the office of treasurer, before entering upon the duties of his office, shall execute a bond in double the probable amount of money to be received by him, which amount shall be determined by the board of supervisors of the township. § 38, sub-c. 1. c. 112, 1883.

§ 2571. **Constable to take oath and give bond.** Each person chosen to the office of constable, before entering upon the duties of his office and within eight days after he is notified of his election or appointment, shall take and subscribe the oath of office and execute a bond as prescribed by law. Such bond shall be approved and filed as provided in chapter 6 of this code. § 40, sub-c. 1. c. 112, 1883, am'd.

§ 2572. **Bond of assessor to be filed.** Each township assessor shall give a bond in the penal sum of five hundred dollars and shall immediately after the approval thereof, deliver the same to the township clerk, whose duty it shall be forthwith to file such bond with the county auditor. § 1, c. 128, 1889, am'd.

§ 2573. **Neglect to qualify.** If any person elected or appointed to any township office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law such neglect shall be deemed a refusal to serve in such office. § 42, sub-c. 1. c. 112, 1883.

§ 2574. **Penalty for neglect to take oath.** If any township officer who is required by law to take an oath of office, enters upon the duties of his office before taking such oath, he forfeits to such township the sum of fifty dollars. § 43, sub-c. 1. c. 112, 1883.

§ 2575. **Road overseer and pound master to file acceptance.** Each person elected or appointed to the office of overseer of highways or pound master, before he enters upon the duties of his office and within ten days after he is notified of his election or appointment, shall file in the office of the township clerk a notice § 44, sub-c. 1. c. 112, 1883.

signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve.

§ 45, sub-c. 1, c. 112, 1883. **§ 2576. Term of office of township officers.** Township officers, except justices of the peace and constables, shall hold their offices for one year and until their successors are elected or appointed and qualified. Justices of the peace and constables shall hold their offices for two years and until their successors are elected and qualified.

ARTICLE 9. — VACANCIES.

§ 46, sub-c. 1, c. 112, 1883. **§ 2577. Board may accept resignations.** The board of supervisors of any township may for sufficient cause shown to it accept the resignation of any officer in its township, and whenever it accepts any such resignation it shall forthwith give notice thereof to the township clerk.

§ 47, sub-c. 1, c. 112, 1883. **§ 2578. Vacancies filled, how.** Whenever any township fails to elect the proper number of officers, or whenever any person elected to a township office fails to qualify, or whenever any vacancy happens in any township office from death, resignation, removal from the township or other cause, the justices of the peace of the township, together with the board of supervisors or a majority of them, shall fill the vacancy by appointment by warrant under their hand, and the persons so appointed shall hold their offices until the next annual meeting and until their successors are elected and qualified, and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected.

§ 48, sub-c. 1, c. 112, 1883. **§ 2579. Vacancies in appointing board.** Whenever a vacancy occurs from any cause in the office of justice of the peace or township supervisor, the remaining officers of such appointing board shall fill any vacancy thus occurring.

§ 1, c. 156, 1887. **§ 2580. When county auditor to appoint township assessor.** When any township assessor is elected and fails or refuses to qualify or to discharge the duties of his office, or if the electors of a township fail for any reason to elect an assessor, and the township board of said township fails or refuses to appoint an assessor for the township on or before the fifteenth day of April of the year for which such assessor is to serve, it shall be the duty of the county auditor to appoint an assessor for such township, who shall be a resident of the township for which he is to serve as assessor.

ARTICLE 10. — BOARD OF HEALTH.

§ 50, sub-c. 1, c. 112, 1883. **§ 2581. Supervisors as board of health.** The township supervisors shall constitute a board of health, and within their respective townships shall have and exercise all the powers necessary for the preservation of the public health.

§ 51, sub-c. 1, c. 112, 1883. **§ 2582. Powers of board of health.** The board of health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as it may judge necessary for the public health and safety of the inhabitants; and each person who violates any order or regulation made by any board of health and duly published is guilty of a misdemeanor and is punishable by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

§ 2583. **Public notice of orders and regulations.** Notice shall be given by the board of health of all orders and regulations made by it, by publishing the same in some newspaper if there is one published in such township or the county; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons. § 52, sub-c. 1, c. 112, 1883.

§ 2584. **Penalty for refusal to obey order.** Whenever any nuisance, source of filth or cause of sickness is found on private property, the board of health shall order the owner or occupant thereof at his own expense to remove the same within twenty-four hours; and if the owner or occupant thereof neglects so to do he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the township. § 53, sub-c. 1, c. 112, 1883.

§ 2585. **Proceedings on such refusal.** Whenever such owner or occupant shall fail to comply with such order of the board of health, said board may cause the said nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by such owner or occupant or by the person causing or permitting the same. § 54, sub-c. 1, c. 112, 1883.

§ 2586. **Board to enter infected premises. Proceedings if opposed.** Whenever the board of health deems it necessary for the preservation of the health of its inhabitants to enter any building or vessel in the township for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth or cause of sickness, and shall be refused such entry, any member of the board may make complaint under oath to a justice of the peace of his township, stating the facts in the case so far as he has knowledge thereof. § 55, sub-c. 1, c. 112, 1883.

§ 2587. **Warrant to be issued by justice.** Such justice shall thereupon issue a warrant directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more members of the board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth or cause of sickness complained of may be, and destroy, remove or prevent the same under the direction of the members of such board of health. § 56, sub-c. 1, c. 112, 1883.

§ 2588. **Quarantine of infected person.** When any person coming from abroad or residing in any city, town or village in this state is infected or lately has been infected with the smallpox or other contagious disease dangerous to the public health, the board of health of the city, town or village where such sick or infected person is, may immediately cause such person to be removed to a separate house if it can be done without danger to his health, and shall provide for such person a nurse, medical attendance and other necessaries, which shall be a charge in favor of such city, town or village against the person so provided for, his parents, guardian or master, if able, otherwise against the county to which he belongs, or the state if such person is a nonresident of the state. § 57, sub-c. 1, c. 112, 1883.

§ 2589. **Same. When person cannot be moved.** If such infected person cannot be removed without danger to his health, the board shall make provision as directed in the preceding section, for such person in the house where he may be, and in such case it may cause the persons in the neighborhood to be removed; and may take such other measures as it deems necessary for the safety of the inhabitants. § 58, sub-c. 1, c. 112, 1883.

§ 59, sub-c. 1, c.  
112, 1883.

**§ 2590. Board to provide hospital.** When a disease dangerous to the public health breaks out in any township, the board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the board; and the board may cause any sick and infected person to be removed thereto, unless his condition will not permit such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and with all its inmates subject to the regulations of the board.

ARTICLE 11.— POWERS AND DUTIES OF SUPERVISORS.

§ 1, c. 155, 1887.

**§ 2591. Regular meetings.** The township board of supervisors shall hold regular meetings on the last Tuesday of February, the last Tuesday of March, the fourth Monday of June and the last Tuesday of October of each year.

§ 2, c. 155, 1887.

**§ 2592. Where held.** Such meetings shall be held at the office of the township clerk or at the usual place for holding the annual township meetings if there is one. It shall meet not later than ten o'clock A. M. and shall not adjourn before four o'clock P. M.

§ 3, c. 155, 1887.

**§ 2593. Business to be transacted.** At its meetings in February and June it shall perform all the duties now required of it by law to be transacted at such meetings, and any other business that may legally come before it.

§ 4, c. 155, 1887.

**§ 2594. Approve bonds of township officers.** At its meeting in March the chairman shall approve the bonds of township officers, and said officers shall immediately enter upon the duties of their office, and shall assess the highway labor and road tax for the ensuing year and perform all the duties required of them in article 7 of chapter 17.

§ 5, c. 155, 1887.

**§ 2595. Audit accounts.** At its meeting in October it shall audit accounts, settle with the road overseers and transact any other business that may come before it.

§ 6, c. 155, 1887.

**§ 2596. Adjourned and special meetings.** It may adjourn from time to time, and in cases of emergency may hold special meetings on call of the clerk on three days' notice.

§ 7, c. 155, 1887.

**§ 2597. Business with board. When to appear.** It shall be the duty of all persons having business to transact with the board of supervisors of any township to appear before such board at any regular meeting, or file such business with the clerk to be laid before the board by him at its next meeting.

§ 60, sub-c. 1, c.  
112, 1883.

**§ 2598. Powers of supervisors.** The supervisors shall have charge of such affairs of the township as are not by law committed to other township officers; and they shall have power to draw orders on the township treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the township and for all moneys raised by the township to be disbursed for any other purpose.

§ 61, sub-c. 1, c.  
112, 1883.

**§ 2599. Improving streets.** Whenever any incorporated village or town which is laid out into streets is included in the limits of an organized township, the township supervisors are authorized to cause improvements to be made in any street that may be needed as a highway if the corporate authorities of such village or town neglect to make such improvements.



§ 2600. **Board to prosecute actions.** The supervisors shall by their name of office prosecute for the benefit of the township, all actions upon bonds given to them or their predecessors in office; and shall also sue for and collect all penalties and forfeitures in respect to which no other provision is made, incurred by any officer or inhabitant of the township; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure, highway or property belonging to the township, and shall pay all moneys collected under this section to the township treasurer. § 62, sub-c. 1, c. 112, 1883.

§ 2601. **Quorum of the board.** Any two of the supervisors shall constitute a quorum for the performance of any duties required by law of the township supervisors, except when otherwise provided. § 63, sub-c. 1, c. 112, 1883.

## ARTICLE 12.—POWERS AND DUTIES OF OFFICERS.

### TOWNSHIP CLERK.

§ 2602. **Clerks may administer oaths.** The township clerk of the several townships, city clerks or auditors of all cities, and recorders of all town or villages in this state, are authorized to administer oaths and take acknowledgments of instruments, authorized or required by law. § 64, sub-c. 1, c. 112, 1883.

§ 2603. **May appoint deputy.** The township clerk shall have the custody of the record books and papers of the township when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office. He may at his discretion appoint a deputy, for whose acts he shall be responsible. Before any deputy clerk enters upon the duties of his office he shall take and subscribe the oath required by law, which oath shall be filed in the office of the clerk of the district court. § 65, sub-c. 1, c. 112, 1883.

§ 2604. **Shall keep records.** The clerk shall record in the book of records of his township, minutes of the proceedings of each township meeting, and enter therein each order or direction and all rules and regulations of any such meeting; and shall also file and preserve all accounts audited by the township board or allowed at a township meeting, and enter a statement thereof in such book of records. § 66, sub-c. 1, c. 112, 1883.

§ 2605. **Clerk to give bond and take oath.** Each person elected or appointed to the office of township clerk shall, before entering upon the duties of his office and within the time prescribed by law for filing his oath of office, execute a bond with two or more sureties to be approved by the township treasurer, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Such bond so approved shall be filed in the office of the clerk of the district court for the benefit of any person aggrieved by the acts or omissions of such clerk, and any person so aggrieved or the township may maintain an action on such bond against said clerk and his sureties. § 67, sub-c. 1, c. 112, 1883.

§ 2606. **Send name of constable to clerk of district court.** Each township clerk, immediately after the qualification of any constable elected or appointed in his township, shall transmit to the clerk of the district court of the county the name of such constable. § 68, sub-c. 1, c. 112, 1883.

§ 2607. **Send name of justice to clerk of district court.** Each township clerk shall immediately after the election of any § 69, sub-c. 1, c. 112, 1883.

justice of the peace in his township transmit a written notice thereof to the clerk of the district court of the county, stating therein the name of the person elected and the term for which he is elected; and if elected to fill a vacancy, he shall state in such notice who was the last incumbent of the office.

§ 70, sub-c. 1, c.  
112, 1883.

**§ 2608. Penalty for neglect.** If any township clerk willfully neglects to make such return he shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding ten dollars.

TOWNSHIP TREASURER.

§ 71, sub-c. 1, c.  
112, 1883.

**§ 2609. Duties of treasurer.** The township treasurer shall receive and take charge of all moneys belonging to the township or which are by law required to be paid into the township treasury, and shall pay over and account for the same upon the order of such township or the officers thereof duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law.

§ 72, sub-c. 1, c.  
112, 1883.

**§ 2610. To keep account of receipts and disbursements.** Each township treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the township for that purpose, and exhibit such account, together with his vouchers, to the township board at its annual meeting, for adjustment; and he shall deliver all books and property belonging to his office and the balance of all moneys in his hands as such treasurer, to his successor in office, on demand after such successor has qualified according to law.

§ 73, sub-c. 1, c.  
112, 1883.

**§ 2611. Treasurer to draw moneys from the county.** The township treasurer shall from time to time draw from the county treasury such moneys as have been received by the county treasurer for the use of his township and on receipt of such moneys shall deliver proper vouchers therefor. Each township treasurer shall be allowed and entitled to retain two per cent of all moneys paid into the township treasury for receiving, safely keeping and paying over the same according to law.

§ 74, sub-c. 1, c.  
112, 1883.  
§ 1, c. 157, 1887.

**§ 2612. Treasurer to make statement.** Each township treasurer within five days preceding the annual township meeting shall make out a statement in writing of the moneys by him received into the township treasury from the county treasurer and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person and the date of receiving the same, also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the township clerk, and shall be by such clerk carefully preserved and recorded in the township book of records, and a duplicate of such statement shall at the same time be filed by the township treasurer with the county auditor of his county.

§ 2613. **Penalty for neglect.** Each township treasurer who refuses or neglects to comply with the provisions of the four preceding sections, shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court, if there is no jury impaneled, and may be recovered by a civil action in the name of the person who prosecutes the same, with costs of the suit; one-half shall go to the person so prosecuting, and the remainder to the township of which such delinquent is or has been treasurer.

§ 75, sub-c. 1. c.  
112, 1883.

§ 2614. **Warrant record. Indorsement of warrants not paid.** Each township treasurer shall keep a suitable book to be provided at the expense of the township in which he shall enter the township orders that he cannot pay for want of funds when presented to him for payment, which orders when presented shall be indorsed by such treasurer by putting upon the back of the same the words "not paid for want of funds," giving the date of such indorsement, signing his name as township treasurer, which order when so indorsed shall bear interest from that date until paid. All township orders shall be paid in the order that they are registered, out of the first moneys that come into the treasurer's hands for such purposes.

§ 76, sub-c. 1. c.  
112, 1883.

## ASSESSORS.

§ 2615. **Assessors, how governed.** The township assessor shall be governed by and make assessments and returns as provided in the chapter on revenue and taxation of this code, and shall be paid for his service out of the township treasury.

§ 55, c. 59, 1879.

## ARTICLE 13.—BOARD OF AUDITORS.

§ 2616. **Supervisors to audit accounts.** The supervisors constitute a board of audit for the purpose of auditing all accounts payable by the township; and if for any cause there are not three supervisors present to constitute such board the chairman, and in his absence either of the supervisors, may notify any one or as many of the justices of the peace of the township as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the township board.

§ 77, sub-c. 1. c.  
112, 1883.

§ 2617. **Meetings of board.** The board shall meet on the Tuesday next preceding the annual township meeting, and on the last Tuesday of October in each year, and at such other times as it deems necessary and expedient for the purpose of auditing and settling all charges against the township; and it shall state on each account the amount allowed by it; but no allowance shall be made for any account which does not specifically state each item of the same and the nature thereof.

§ 78, sub-c. 1. c.  
112, 1883.  
§ 5, c. 155, 1887.

§ 2618. **Board to audit accounts of treasurer at annual meeting.** The board shall also, at its annual meeting on the last Tuesday of February in each year, examine and audit the accounts of the township treasurer for all moneys received and disbursed by him as such officer; and it shall audit the accounts of all other township officers who are authorized by law to receive or disburse any money of the township by virtue of their office.

§ 79, sub-c. 1. c.  
112, 1883.

§ 2619. **Board to report accounts audited and allowed.** Such board shall make a report, stating in detail the items of account

§ 80, sub-c. 1. c.  
112, 1883.

audited and allowed, the nature of each account, and the name of the person to whom such account was allowed, including a statement of the fiscal concerns of the township, and an estimate of the sum necessary for the current expenses thereof, the support of the poor and other incidental expenses for the ensuing year.

§ 81, sub-c. 1, c.  
112, 1883.

**§ 2620. Report to be read at township meeting.** Such report shall be produced and publicly read by the township clerk at the next ensuing township meeting, and the whole or any portion of such report may be referred by order of the meeting to a committee, whose duty it shall be to examine the same and report thereon to such meeting.

§ 82, sub-c. 1, c.  
112, 1883.

**§ 2621. Treasurer shall pay all orders.** The amount of any account audited and allowed by the board and the amount of any account voted to be allowed at any township meeting shall be paid by the township treasurer on the order of the board signed by the chairman and countersigned by the clerk; and all orders issued to any person by the board for any sum due from such township shall be receivable in payment of township taxes of such township.

§ 83, sub-c. 1, c.  
112, 1883.

**§ 2622. Clerk of the board of supervisors.** The township clerk shall be clerk of the township board, and shall keep in his office a true record of all its proceedings.

ARTICLE 14. — FEES OF OFFICERS.

§ 86, sub-c. 1, c.  
112, 1883.

**§ 2623. Compensation of assessor.** The township assessor shall receive for his services three dollars per day for each day necessarily devoted by him to the service of the township while engaged in his duties as such assessor; provided, that such compensation shall not exceed the sum of sixty dollars in any one congressional township.

§ 1, c. 126, 1889.  
am'd.

§ 86, sub-c. 1, c.  
112, 1883.

**§ 2624. Compensation of clerk and supervisors.** The township clerk and supervisors shall receive for their services one dollar and fifty cents per day for each day necessarily devoted by them to the service of the township when attending to business in their township, and two dollars when attending to business out of the township; no township supervisor shall receive more than thirty-five dollars compensation in any one year; provided, that the township clerk shall be paid fees for the following, and not a per diem: For serving notices of election upon township officers, as required by law, twenty-five cents each; for filing any paper required by law to be filed in his office, ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument or writing authorized by law, ten cents for each one hundred words; for copying any record or instrument on file in his office and certifying the same, ten cents for each one hundred words, to be paid for by the person applying for the same.

§ 86, sub-c. 1, c.  
112, 1883.

**§ 2625. Compensation, increasing or reducing.** At any township meeting before the electors commence balloting for officers they may by resolution reduce or increase the compensation of officers, but no such increase shall exceed one hundred per cent.

ARTICLE 15. — CLAIMS AGAINST TOWNSHIPS.

§ 87, sub-c. 1, c.  
112, 1883.

**§ 2626. Claims against townships. Accounts stated, how.** Before any account, claim or demand against any township or county of this state for any property or services for which such township or

county shall be liable shall be audited or allowed by the board or officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, or that the property therein charged for was actually delivered or used for the purposes therein stated and was of the value therein charged, or that the services therein charged were actually rendered and of the value therein charged, or in case such services were official for which fees are prescribed by law then that the fees or amounts charged therefor are such as are allowed by law; and that no part of such account, claim or demand has been paid; provided, that the provisions of this article shall not apply to any claim or demand for an annual salary or per diem of jurors or witnesses fixed by or in pursuance of any statute.

§ 2627. **Accounts must be verified.** The verification required by the preceding section may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited, and each member of such board is hereby authorized to administer the proper oath in such cases; and each person who willfully or knowingly swears falsely on any such claim shall be deemed guilty of perjury and be punished accordingly. § 88, sub-c. 1. c. 112, 1883.

§ 2628. **What accounts need not be verified.** In case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board. § 88, sub-c. 1. c. 112, 1883.

§ 2629. **Consideration of account and action thereon.** Whenever an account, claim or demand against any township or county shall have been verified in the manner prescribed in this article, the board to whom the same is presented may receive and consider the same and may allow or disallow the same in whole or in part, as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal. § 89, sub-c. 1. c. 112, 1883.

§ 2630. **Penalty for auditing an account not verified.** Any member of such board who shall audit and allow any account, claim or demand required by this article to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor and be punished by a fine of not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both. § 90, sub-c. 1. c. 112, 1883.

#### ARTICLE 16.—SUITS BY AND AGAINST TOWNSHIPS.

§ 2631. **Proceedings in.** Whenever any controversy or cause of action exists between townships or between a township and an individual or corporation, a civil action may be commenced and prosecuted for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment therein shall have the like effect, as in other actions or proceedings of a similar kind between individuals and corporations. § 91, sub-c. 1. c. 112, 1883.

§ 2632. **Township to sue in its name.** In all such actions and proceedings the township shall sue and be sued in its name, § 92, sub-c. 1. c. 112, 1883.

except where township officers are authorized by law to sue in their name of office for the benefit of the township.

§ 94, sub-c. 1, c.  
112, 1883.

§ **2633. Service, on whom.** In legal proceedings against a township by name all papers shall be served on the chairman of the board of supervisors, and in case of his absence on the township clerk, and whenever any action or proceeding is commenced the chairman shall attend to the defense thereof, and lay before the electors of the township at the first township meeting a full statement of such proceedings, for their direction in regard to the defense thereof.

§ 95, sub-c. 1, c.  
112, 1883.

§ **2634. Jurisdiction.** No action in favor of any township shall be brought before any justice of the peace residing in such township.

§ 96, sub-c. 1, c.  
112, 1883.

§ **2635. Recovery in cases of trespass.** Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the township, if it appears on the trial thereof that the actual amount of injury to such township lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with costs of suit shall be recovered in such action, instead of any penalty for such trespass imposed by the township meeting, and such recovery shall be a bar to all other actions for the same trespass.

§ 97, sub-c. 1, c.  
112, 1883.

§ **2636. Court may partition lands, when.** Whenever by judgment or decision in any action or proceeding brought to settle any controversy in relation to township commons or other lands, the common property of a township, or for the partition thereof, the rights of any township are settled and confirmed, the court in which such proceedings are had may partition such lands according to the rights of the parties.

§ 98, sub-c. 1, c.  
112, 1883.

§ **2637. Payment of judgment.** When a judgment is recovered against any township or against any township officers in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the township treasurer upon demand and the delivery to him of a certified copy of the docket of the judgment, if there is sufficient money of such township in his hands not otherwise appropriated. If he fails to do so he shall be personally liable for the amount, unless the collection thereof is afterwards stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the township treasurer the money in his hands belonging to such township levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued, but only township property shall be liable thereon.

§ 99, sub-c. 1, c.  
112, 1883.

§ **2638. When judgment is not satisfied.** If judgment for the recovery of money is rendered against any township, and the judgment is not satisfied or proceedings thereon stayed by appeal or otherwise before the next annual meeting of the township, a certified copy of the docket of the judgment may be presented to such township at said annual meeting. The supervisors of the township shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of such township and the same certified to the county auditor and collected as other township taxes are collected.

## ARTICLE 17. — TOWNSHIP CHARGES AND LEVIES.

§ 2639. **Township charges, what are.** The following shall be deemed township charges: § 100, sub-c. 1, c. 112, 1883.

1. The compensation of township officers for services rendered their respective townships.

2. Contingent expenses necessarily incurred for the use and benefit of the township.

3. The moneys authorized to be raised by the vote of the township meeting for any township purpose.

4. Each sum directed by law to be raised for any township purpose; provided, that no tax for township purposes shall exceed the amount voted to be raised at the annual township meeting as provided in subdivision 8 of section 2542.

§ 2640. **Moneys levied, how.** The moneys necessary to defray the township charges of each township shall be levied on the taxable property in such township in the manner prescribed in the chapter on revenue and taxation in this code. § 101, sub-c. 1, c. 112, 1883.

§ 2641. **Clerk to notify county auditor of levy.** It is the duty of the township clerk immediately after the township board of supervisors have made the levy of taxes, or within three days thereafter, to notify the county auditor of the amount levied, who shall enter the same on the county tax list, to be collected by the county treasurer as county taxes are collected. § 33, c. 59, 1879.

## ARTICLE 18. — BOOKS AND PAPERS OF OUTGOING OFFICERS.

§ 2642. **Successor in office to demand records.** Whenever the term of any supervisor, township clerk or assessor expires, and another person is appointed or elected to such office, such successor immediately after he enters upon the duties of his office shall demand of his predecessor all books and papers under his control belonging to such office. § 102, sub-c. 1, c. 112, 1883.

§ 2643. **Same, vacancy.** Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers. § 103, sub-c. 1, c. 112, 1883.

§ 2644. **Records to be delivered.** Each person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver upon oath all records, books and papers in his possession or under his control, belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made. § 104, sub-c. 1, c. 112, 1883.

§ 2645. **Demand for records in case of death.** Upon the death of any of the officers enumerated, the successor of such officer shall make such demand as above provided of the executor or administrator of such deceased officer, and such executor or administrator shall deliver upon like oath all records, books, papers or moneys in his possession or under his control, belonging to the office held by his testator or intestate. § 105, sub-c. 1, c. 112, 1883.

## ARTICLE 19. — GUIDEPOSTS.

§ 106, sub-c. 1,  
c. 112, 1883.     **§ 2646. Townships to erect guideposts.** Each township shall in the manner provided herein erect and maintain guideposts on the highways and other ways within the township, at such places as are necessary or convenient for the direction of travelers.

§ 107, sub-c. 1,  
c. 112, 1883.     **§ 2647. Report to annual meeting.** The supervisors shall submit to the electors at each annual meeting a report of all the places at which guideposts are erected and maintained within the township, and of all places at which in their opinion they ought to be erected and maintained. For each neglect or refusal to make such report they shall severally forfeit the sum of ten dollars.

§ 108, sub-c. 1,  
c. 112, 1883.     **§ 2648. Penalty for neglect to designate places for guideposts.** Upon the report of the supervisors the township shall determine the several places at which guideposts shall be erected and maintained, which shall be recorded in the township records. Any township which neglects or refuses to determine such places, and to cause a record thereof to be made, shall forfeit the sum of five dollars for each month during which it neglects or refuses so to do; and in such case upon any trial for not erecting or maintaining guideposts reported to be necessary or convenient by the supervisors, the township shall be estopped from alleging that such guideposts were not necessary or convenient.

§ 109, sub-c. 1,  
c. 112, 1883.     **§ 2649. Character of guideposts.** At each of the places determined by the township there shall be erected a substantial post of not less than eight feet in height, near the upper end of which shall be placed a board, and upon such board shall be plainly and legibly painted or otherwise marked the name of the next township or place, and such other town or place of note as the supervisors think proper, to which each of such roads lead, together with the distance or number of miles to the same; and also the figure of a hand with the forefinger thereof pointed towards the towns or places to which such roads lead; provided, that the inhabitants of any township may at their annual meeting agree upon some suitable substitute for such guideposts.

§ 110, sub-c. 1,  
c. 112, 1883.     **§ 2650. Forfeit for neglect to furnish guideposts.** Each township which neglects or refuses to erect and maintain such guideposts or some suitable substitute therefor shall forfeit annually the sum of five dollars for each guidepost which it so neglects or refuses to maintain, which sum may be sued for and collected by any person before any justice of the peace of the proper county, and the moneys so collected shall be paid into the township treasury for the benefit of the roads and bridges of the township.

## ARTICLE 20. — PUBLIC PLACES.

§ 111, sub-c. 1,  
c. 112, 1883.     **§ 2651. Voters shall designate.** At the annual township meeting in each year the legal voters present at each meeting shall determine and designate three places in the township as public or the most public places of such township, and that all legal notices required to be posted in three public or the most public places of a township shall be posted at such places at least, and they shall make provision for the erection and maintenance of posts on which to post notices as aforesaid in all places so designated, in which there is no sufficient natural convenience for that purpose.



## ARTICLE 21. — POUNDS AND POUND MASTERS.

§ 2652. **Pounds located.** Whenever the electors of any township determine at their annual township meeting to erect one or more pounds therein, the same shall be under the care and direction of such pound masters as are chosen or appointed for that purpose. § 112, sub-c. 1, c. 112, 1883.

§ 2653. **Discontinuing pounds.** The electors of any township may at any annual township meeting discontinue any pounds therein. § 113, sub-c. 1, c. 112, 1883.

§ 2654. **Fees of pound master. Sales.** The pound master is allowed to charge and collect the following fees: For taking into pound or discharging therefrom any horse, ass or mule, and all neat cattle, twenty cents each; for every sheep or lamb, ten cents each; and for every hog large or small, ten cents; and twenty-five cents for keeping each twenty-four hours in pound. And the pound master has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid and said animals removed within four days after they are impounded, the pound master shall give notice by posting the same in three of the most public places in the township that said animals, describing them, are impounded, and that unless the same are taken away and fees paid within fifteen days after the date of such notice he will sell the same at public vendue at the place where the township meetings of such township are usually held; and on the day designated in such notice the pound master shall expose such animals for sale and sell the same to the highest bidder for cash, for which service he shall receive two per cent of the purchase money for each animal. § 114, sub-c. 1, c. 112, 1883.

§ 2655. **Proceeds, disposition of.** Out of the money realized from such sale the pound master shall deduct all his legal fees and charges and pay the balance if any to the chairman of the township supervisors, at the same time giving to the supervisors an accurate description of the animals sold and the amount received by him for each animal, and shall take a receipt and duplicate therefor and file one of them with the township clerk; provided, that the supervisors shall at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to such owner the balance due as received from said pound master; but if said money is not claimed within that time then the sum so received shall be retained for the use of the township. § 114, sub-c. 1, c. 112, 1883.

## ARTICLE 22. — DEBTS AND BONDS.

§ 2656. **Limit of debt of townships.** No township has power to contract debts or make expenditures for any one year in a larger sum than the amount of taxes assessed for such year, without having been authorized by a majority of the voters of such township, and no township shall assess for township purposes more than ten mills on the dollar of taxable property for any one year. § 115, sub-c. 1, c. 112, 1883.

§ 2657. **Bonds of townships issued, how and when.** The board of supervisors of the organized townships of this state, or those that may hereafter be organized, are authorized and empowered to issue the bonds or orders of their respective townships, with coupons attached, in such amounts and at such periods as they may be directed § 116, sub-c. 1, c. 112, 1883.

by two-thirds of the legal voters present and voting at any legally called township meeting held for that purpose; such bonds or orders to be payable in such amounts and at such times, not exceeding six years from date, as two-thirds of the legal voters present and voting at such meeting shall determine, with interest thereon not to exceed eight per cent per annum payable annually, which bonds or orders and coupons shall be signed by the chairman of the board of supervisors and countersigned by the clerk of the township; provided, that nothing herein contained shall be construed to authorize the issuing of such bonds or orders unless the same shall have first been voted for by ballot by two-thirds of all the legal voters present and voting at any annual or special township meeting called for that purpose, notices of which, particularly specifying the object for which such meeting was called, have been posted in at least three public places in the township for not less than ten days previous to the time of calling the same.

§ 117, sub-c. 1,  
c. 112, 1883.

**§ 2658. Bonds must be sold at par.** No bonds or orders issued under the authority of this article shall be issued or negotiated for less than par value, nor shall such bonds or orders or the proceeds thereof be used or appropriated for any purpose whatever other than as specified in this article.

§ 118, sub-c. 1,  
c. 112, 1883.

**§ 2659. Levying bond tax.** The board of supervisors and its successors are authorized and it is their duty on or before the first day of September next after the date of such bonds or orders, and in each and every year thereafter on or before the first day of September, until the payment of such bonds or orders and interest is fully provided for, to levy and in due form to certify to the county auditor of the county in which said township is situated, a tax upon the taxable property of the township equal to the amount of principal and interest maturing next after such levy, and in the discretion of the board, such further sums as it shall deem expedient, not exceeding twenty per cent of such maturing bonds or orders and interest, which taxes shall be payable in money and shall constitute a fund for the payment of said bonds or orders and the interest thereon.

#### ARTICLE 23. — REFUNDING BONDS.

**§ 2660. To be issued, when.** Each organized township in this state is authorized and empowered by and through its board of supervisors, when in the judgment of such board it is deemed for the best interests of the township, to issue its negotiable bonds in the name of such township for the sole purpose of refunding any outstanding bonded indebtedness of such township.

**§ 2661. Issuance, how determined. Denomination. Form.** The necessity of issuing and negotiating bonds under the provisions of this article shall be determined by the board of supervisors of such township. Such bonds shall be in denominations of not more than one thousand dollars nor less than one hundred dollars, shall bear the date of their issue and shall be made payable to the purchaser or bearer, and be payable in not less than five nor more than fifteen years from their date; and shall bear interest at a rate not higher than the bonds refunded and shall have coupons attached for each interest payment; such bonds and coupons shall be signed by the chairman of the board of supervisors and shall be attested by the

township clerk. Each bond shall state on its face that it is issued in accordance with this article. Such bonds may be made payable at such place as may be agreed upon.

§ 2662. **Record to be kept.** A record of each bond so issued shall be kept by the township clerk, showing the number of each bond, its date, amount, rate of interest, when and where payable, the amount received therefor, to whom sold and how the proceeds were disposed of.

§ 2663. **Annual tax to pay principal and interest.** At or before the time of issuing any bonds pursuant to the provisions of this article, it shall be the duty of the board of supervisors to provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due.

§ 2664. **Payment of at maturity. Cancellation.** When such bonds and the coupons thereto attached mature it shall be the duty of the township treasurer to pay the same on presentation out of any funds in his hands applicable thereto; and he shall then properly cancel the same.

#### ARTICLE 24. — IRRIGATION.

§ 2665. **Petition. Election.** Whenever ten legal voters of any organized township petition the township board fifteen days previous to any annual township meeting to submit the question of irrigation, by building dams to create ponds or reservoirs on any of the creeks or coulees in the township, it shall be the duty of the board to submit the question to the voters at the next annual township meeting, and the township clerk shall cause three notices to be posted specifying the place and nature of such proposed improvements. § 1, c. 43, 1890. am'd.

§ 2666. **Tax.** Whenever two-thirds of the legal voters of any organized township in this state, at their annual township meeting agree that it is advisable and for the public good that certain specified creeks or coulees should be improved to increase the water supply and for the purpose of irrigation, it shall be lawful for such voters to levy a tax upon said township, to be expended in building dams to create ponds and reservoirs, by and under the direction of the board of supervisors of the township; provided, such improvements shall be wholly in said township; and no lands shall be flooded without the consent of the owner or without just compensation therefor, which compensation shall be determined as provided in the chapter on eminent domain in the code of civil procedure. § 2, c. 43, 1890. am'd.

§ 2667. **Maximum levy.** The tax authorized to be levied by the last section shall not exceed two mills on the dollar of the assessed valuation of the township. § 3, c. 43, 1890.

#### ARTICLE 25. — CONTRACT SYSTEM OF HIGHWAY LABOR.

§ 2668. **Township boards have supervision over.** The several township boards of organized townships in the state shall have general supervision over the roads, highways and bridges throughout their several townships. § 1, c. 91, 1895.

§ 2669. **Plans and specifications for all work.** The several township boards on being petitioned by a majority of the legal voters of such township, as shown by the votes cast at the last annual § 2, c. 91, 1895.

township meeting, shall at the next annual meeting cause a vote to be taken by ballot on which shall be written or printed the words "for contract system," "against contract system," and if a majority of the votes cast are in favor of the contract system then the township board shall at the next meeting succeeding the annual meeting advertise in any one of the county papers for bids for two successive weeks for the improvement and repairing of highways and bridges in its township, in the following manner:

1. The board shall furnish plans and specifications for all work and improvements to be done and performed in the several townships, which shall be filed in the office of the township clerk.

2. It shall at the time of advertising for bids give at least ten days notice, to be posted in three conspicuous places in said township that bids will be received at a time and place mentioned in said notices, and said contracts shall be let to the lowest bidder in accordance with such plans and specifications as are furnished by said board, and the said board shall require upon the letting of such contract, or contracts, a good and sufficient bond for the faithful performance of the work to be done and performed in said contract, and said board shall have authority to reject any and all bids.

§ 3, c. 91, 1895.     **§ 2670. Annual township meeting, Tax fixed.** At the annual township meeting in each year the amount of tax for road purposes shall be voted upon and fixed by township, which shall not exceed the sum of eighty cents on each one hundred dollars of assessed valuation of property, both real and personal.

§ 4, c. 91, 1895.     **§ 2671. Special fund.** All moneys raised in pursuance of the provisions hereof shall constitute a special fund for the improvement of highways and shall be collected, paid out and expended in the manner provided for warrants drawn on the treasurer of each township for general expenses thereof, and such fund shall be kept separate and shall not be used for any other purpose whatsoever.

§ 5, c. 91, 1895.     **§ 2672. Assessments, how collected.** Upon failure to pay any tax assessed for the purposes herein named the same shall become delinquent and shall be collected in the same manner as other taxes.

§ 6, c. 91, 1895.     **§ 2673. Road machinery.** In townships owning road machinery the township boards shall have authority to make such disposition of the same as in its discretion is best for the interests of the township, or it may purchase or lease such machinery as may be necessary for the purpose of carrying out the provisions hereof and the performance of all contracts in reference thereto.

ARTICLE 26.—MISCELLANEOUS.

§ 119, sub-c. 1, c. 112, 1883.     **§ 2674. Officers not to be interested in contracts.** No township officer shall become a party to or be interested directly or indirectly in any contract made by the board of which he may be a member; and every contract or payment voted for or made contrary to the provisions of this section is void; and any violation of this section shall constitute malfeasance in office which will subject the officer so offending to be removed from office.

§ 120, sub-c. 1, c. 112, 1883.     **§ 2675. Election districts.** Each township organized under this chapter, or any law heretofore in force, constitutes an election district.

§ 2676. **City to have same powers as township.** Nothing in this chapter contained shall in any way apply to any portion of the state which is embraced within the limits of any incorporated city; but each incorporated city shall have and exercise within its limits, in addition to its powers the same powers conferred by this chapter upon townships in the manner prescribed by law. § 121, sub-c. 1, c-112, 1888.

§ 2677. **Constables, powers of.** Any constable in any organized township containing any village not incorporated, shall be a proper officer for arresting and detaining any person for disorderly conduct within the village arising from drunkenness or otherwise, without process first issuing, and any person deemed guilty of such disorderly conduct shall be taken before any justice of the peace of such township, and upon conviction thereof be fined in the sum of not less than five nor more than ten dollars and all costs arising from such complaint and trial. § 95, c. 59, 1879.

§ 2678. **To provide for confinement of prisoners.** Any township with any such village not incorporated, shall at the annual township meeting have power to vote any appropriations necessary for providing a place of confinement, and may adopt such regulations as may be necessary in relation thereto. § 39, c. 23, Pol.C.

§ 2679. **Notice to be given.** Any township providing such place of confinement shall cause notice thereof to be published in the newspaper having the largest circulation in such township, if there is any, or cause the township clerk to post notice thereof in three of the most public places in such township. § 40, c. 23, Pol.C.

§ 2680. **Convicted person confined.** Any person convicted under the preceding sections shall be confined in the calaboose until all fines and costs are paid, not less than one day nor more than ten days. § 41, c. 23, Pol.C.

## CHAPTER 32.

### MISCELLANEOUS PROVISIONS.

§ 2681. **Code not retroactive unless so declared.** No part of this code is retroactive unless expressly so declared.

§ 2682. **Rule of construction of code.** The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of this state respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

§ 2683. **Same.** The provisions of this code, so far as they are substantially the same as existing statutes must be construed as continuations thereof, and not as new enactments.

§ 2684. **Offices under acts repealed by code are continued, when.** All persons who, at the time this code takes effect, hold office under any of the acts repealed, continue to hold the same according to the tenure thereof, except those offices which are not continued by one of the codes adopted at this session of the legislative assembly, and excepting offices filled by appointment.

§ 2685. **Same.** When any office is abolished by the repeal of any act, and such act is not in substance re-enacted or continued in either of the codes, such office ceases at the time the codes take effect.

§ 2686. **Pending actions or proceedings not affected by code.** No action or proceeding commenced before this code takes effect, and no right accrued, is affected by its provisions, but the proceedings therein must conform to the requirements of this code as far as applicable.

§ 2687. **Limitations, how reckoned.** When a limitation or period of time prescribed in any existing statute for acquiring a right or barring a remedy, or for any other purpose, has begun to run before this code goes into effect, and the same or any limitation of time is prescribed in this code, the time which has already run shall be deemed part of the time prescribed as such limitation by this code.

§ 2688. **This act, how referred to.** This act, whenever cited, enumerated, referred to or amended may be designated simply as the political code, adding when necessary, the number of the section.